

1. EMILIO GARCELL
(Applicant)

05-7-CZ14-7 (05-37)
BCC/District 9
Hearing Date: 2/23/06

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☐ /lease ☐ the property predicated on the approval of the zoning request? Yes ☐ No ☒

Disclosure of interest form attached? Yes ☐ No ☒

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
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NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 14
MOTION SLIP

APPLICANT'S NAME: EMILIO GARCELL

7

REPRESENTATIVE: **APPLICANT**

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
05-7-CZ14-7 (05-37)	JULY 7, 2005	CZAB14		05

REQ: single-family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

REC: DWOP

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S):	_____
<input checked="" type="checkbox"/> DEFER:	<input type="checkbox"/> INDEFINITELY	<input checked="" type="checkbox"/> TO: <u>OCT. 17, 2005</u>	<input type="checkbox"/> W/LEAVE TO AMEND
<input type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input type="checkbox"/> WITHOUT PREJUDICE	
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS		
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT	<input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS		
<input type="checkbox"/>			

TITLE	M/S	NAME	YES	NO	ABSENT
MR.		Samuel L. BALLINGER			X
MR.	M	Wilbur B. BELL	X		
MS.	S	Dawn Lee BLAKESLEE	X		
MS.		Rose L. EVANS-COLEMAN	X		
MR.		Don JONES			X
VICE-CHAIRMAN		Curtis LAWRENCE (C.A.)			X
MADAME CHAIRPERSON		DR. Pat WADE	X		
VOTE:			4	0	

EXHIBITS: ☐ YES ☒ NO

COUNTY ATTORNEY: THOMAS ROBERTSON

**MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 14
MOTION SLIP**

B

APPLICANT'S NAME: EMILIO GARCELL

REPRESENTATIVE: MR. & MRS. GARCELL

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
05-7-CZ14-7 (05-37)	OCTOBER 17, 2005	CZAB14		05

REQ: SFR on a lot with an area of 7.78 gross acres (40 gross acres required).

REC: DWOP

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S): _____
<input checked="" type="checkbox"/> DEFER:	<input type="checkbox"/> INDEFINITELY	<input checked="" type="checkbox"/> TO: <u>NOV. 15, 2005</u> <input type="checkbox"/> W/LEAVE TO AMEND
<input type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input type="checkbox"/> WITHOUT PREJUDICE
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS	
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT <input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS	
<input type="checkbox"/>		

TITLE	M/S	NAME	YES	NO	ABSENT
MR.		Samuel L. BALLINGER			X
MR.	M	Wilbur B. BELL	X		
MS.	S	Dawn Lee BLAKESLEE	X		
MS.		Rose L. EVANS-COLEMAN			X
MR.		Don JONES			X
VICE-CHAIRMAN		Curtis LAWRENCE (C.A.)	X		
MADAME CHAIRPERSON		DR. Pat WADE	X		
VOTE:			4	0	

EXHIBITS: ☐ YES ☒ NO

COUNTY ATTORNEY: THOMAS ROBERTSON

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS.**

APPLICANT: Emilio Garcell

PH: Z05-037 (05-7-CZ14-7)

SECTION: 15-55-38

DATE: February 23, 2006

COMMISSION DISTRICT: 9

ITEM NO.: 1

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A. INTRODUCTION

o REQUEST:

The Director of the Department of Planning and Zoning is appealing the decision of Community Zoning Appeals Board #14 on Emilio Garcell, which approved the following:

Applicant is requesting to permit a single family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

Upon a demonstration that the applicable standards have been satisfied, approval of the request may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A plan is on file and may be examined in the Zoning Department entitled "Proposed Legalization Residence for: Mr. & Mrs. Emilio & Caridad Garcell," as prepared by Miami Engineering Co. and dated 2-8-05. The plan may be modified at public hearing.

o SUMMARY OF REQUEST:

This application seeks to permit a buildable site for a single-family home with less area than required by the Miami-Dade Zoning Code.

o LOCATION:

12400 S.W. 199 Avenue, Miami-Dade County, Florida.

o SIZE: 7.78 gross acres.

o IMPACT:

This application would permit the maintenance and continued use of an existing single-family residence on this site. This application would increase population in an area which is subject to periodic flooding and would result in a potential health hazard.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2005 and 2015 Land Use Plan designates the subject property for **Open Land**. The subject property is located 3.5 miles west of and outside of the Urban Development Boundary Line.
2. **Open Land Subarea 4 (East Everglades Residential Area)**. This subarea is bounded on the north, west and southwest by Environmental Protection Subarea B, on the east by Levee 31 N, and on the south by SW 168 Street. Uses which may be considered for approval in this area are seasonal agriculture and rural residences at a density of 1 dwelling unit per 40 acres, or 1 dwelling unit per 20 acres if ancillary to an established agricultural operation, or 1 dwelling unit per 5 acres, after such time as drainage facilities become available to protect this area from a one-in-ten year flood event in keeping with the adopted East Everglades zoning overlay regulation (Section 33B, Code of Miami-Dade County) and compatible and necessary utility facilities. Uses that could compromise groundwater quality shall not occur in this area. (Land Use Element, page I-52).

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

GU; single family residence

Open Land Subarea 4

Surrounding Properties:

NORTH: GU; vacant

Open Land Subarea 4

SOUTH: GU; single family residence

Open Land Subarea 4

EAST: GU; vacant

Open Land Subarea 4

WEST: GU; vacant

Open Land Subarea 4

The subject parcel is located between SW 199 Avenue and SW 202 Avenue on the north side of theoretical SW 125 Street. The area where the subject property lies is characterized by vacant parcels. A single family residence lies to the south of the subject property.

E. SITE AND BUILDINGS:

Site Plan Review:

(plan submitted)

Scale/Utilization of Site:

Unacceptable

Location of Buildings:

Unacceptable

Compatibility:

Unacceptable

Landscape Treatment:	Unacceptable
Open Space:	Unacceptable
Buffering:	Unacceptable
Access:	Acceptable
Parking Layout/Circulation:	N/A
Visibility/Visual Screening:	N/A
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 33-311(A)(14) Alternative Site Development Option for Single Family and Duplex Dwellings

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts.

(d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:

(1) the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:

- A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and
- B. the proposed alternative development will not result in the further subdivision of land; and
- C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and
- D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
- E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
- F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and

- G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (2) the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:
- A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and
 - B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and
 - C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (3) the proposed lot area, frontage or depth is such that:
- A. the proposed alternative development will not result in the creation of more than three (3) lots; and
 - B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - C. no lot area shall be less than the smaller of:
 - i. ninety percent (90%) of the lot area required by the underlying district regulations; or
 - ii. the average area of the developed lots in the immediate vicinity within the same zoning district; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and

- E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (4) if the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:
- A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and
 - B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area.
 - C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with the agricultural designation; and
 - E. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (g) Notwithstanding the foregoing, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- 1. will result in a significant diminution of the value of property in the immediate vicinity; or
 - 2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
 - 3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or
 - 4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations by Section 33B-45 of this code.

Section 33-311(A)(4)(b) Non-Use Variance Standard. Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the

terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c) Alternative Non-Use Variance Standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

Sec. 33B-25. Authorized uses.

(A) Management Area 1:

(1) *Permitted uses:*

- (a) Agricultural use, and
- (b) Agricultural support housing at a density of no greater than one (1) unit per forty (40) acres, or
- (c) Single-family detached dwelling units at a density of no greater than one (1) unit per forty (40) acres.

(2) *Conditional uses:*

- (a) Single-family detached dwelling units at a density of no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event. This area is defined as all of Sections 14, 21, 22, 23, 27, 28; the south one-half of Section 11 and the south one-half of the north one-half of Section 11; the east one-half of Section 15; the east one-half of Section 16; all land in Section 26 which lies northerly and westerly of Levee L-31-N; the east one-half of the east one-half of Section 29; all within Township 55 South and Range 38 East.
- (b) Residential dwelling units at a density of no greater than one (1) dwelling unit per twenty (20) acres, provided that:

1. The dwelling unit is ancillary to an established agricultural operation involving less than forty (40) acres, and
2. Occupancy of the dwelling is limited to the owner, operator or employees of the established agricultural operation, and
3. The parcel was not in common ownership with any adjacent parcel of land on or after January 14, 1981.

Sec. 33B-26. Environmental performance standards.

All development in the East Everglades Area of Critical Environmental Concern shall comply with the standards listed below. The cumulative and/or secondary/induced impacts of the proposed development shall be considered in determining whether the development meets the environmental performance standards of this section.

(a) *Fill:*

- (1) The placement of fill including the construction of roadways shall not impede the rate or volume of surface water flow or create significant backwater conditions.
- (2) The area of fill shall not exceed the following limitations:
 - a. In Management Areas 1 and 3B--One-half acre; and
 - b. In Management Areas 2A, 2B, 3A and 3C--The minimum area necessary to install an on-site waste water treatment system, not to exceed one-half acre.

(b) *Excavation:* No excavation shall be carried out in the East Everglades Area of Critical Environmental Concern, except:

- (1) Discontinuous shallow ditching for agricultural purposes shall be permitted; however, it shall not serve as a continuous conduit for transporting water to the extent that it has a significant adverse effect on the natural hydrologic regimen of the immediate vicinity of the parcel proposed for development.
- (2) Excavation of shallow lakes for recreation and/or fill for uses permitted under this division shall be evaluated on a case-by-case basis, and all such lakes shall meet all applicable Miami-Dade County criteria for lakes.

(c) *Roads:*

- (1) No roads shall be permitted in Management Areas 2A and 2B.

- (2) Where permitted, roads in the East Everglades Area of Critical Environmental Concern must be designed so that they will not interrupt or divert natural sheet flow. Elevated roads must be sufficiently bridged and culverted to allow the passage of high water flows without causing significant backwater conditions. The Miami-Dade County Public Works Manual on road design, as amended from time to time, is incorporated herein by reference. No roads shall be permitted in Management Areas 2A and 2B.
- (d) *Clearing of native vegetation:* Tree islands characterized by native vegetation shall be preserved in all management areas, including agricultural areas. Residential and hunting camp uses on tree islands shall be permitted only if the tree island canopy is preserved intact and the proposed use will not have a significant adverse impact on the wildlife habitat value of the island.
- (e) *Landscaping:* Species to be used in ornamental planting shall not include noxious exotic plants. All ornamental planting shall be subject to the approval of the Miami-Dade County Department of Environmental Resources Management.
- (f) *Solid waste disposal:* No solid waste not degradable by approved on-site systems shall be disposed of or deposited in the area of critical environmental concern.
- (g) *Agriculture:*
 - (1) Agricultural activities shall be managed so that exotic plants will not become established, maintained or propagated. All practicable methods of control, subject to County approval, which do not significantly degrade the environment shall be employed. Affirmative steps shall be taken to eliminate the noxious exotic species defined herein.
 - (2) Any agricultural practice which reduces infiltration rate from that of natural (or present) conditions shall be compensated for by an on-site retention technique (e.g., ditch, depression). The design of such facilities shall ensure that collected water will percolate into the groundwater system and that no net change in infiltration rate or volume occurs.
 - (3) After completing rock plowing and regrading activity, elevated planting beds shall not inhibit surface water sheet flow.
 - (4) Farm roads built above grade must meet Public Works Manual criteria with regard to the passage of flood flows and sheet flow.

- (5) Construction of structures ancillary to agricultural use such as equipment storage sheds should be located and designed so that they minimize the impact on surface water flow.

Sec. 33B-27. Conditional uses--Application process.

(a) *Application contents.* An application for a permit for development approval for a conditional use authorized by Section 33B-25 of this division shall be submitted to the Department of Environmental Resources Management in accordance with the provisions of this section and shall be accompanied by a nonrefundable fee in an amount to be established from time to time by the Board of County Commissioners of Miami-Dade County. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Department of Environmental Resources Management and the Department of Planning and Zoning and shall contain at least the following information:

- (1) Name and address of applicant;
- (2) Legal description and lot number of the property which is the subject of the application;
- (3) Statement of ownership;
- (4) Size of the subject property;
- (5) A written statement describing in general terms the proposed development;
- (6) A written statement setting forth how the proposed development meets each standard specified in Section 33B-28 for the conditional use;
- (7) A site plan at a scale of not more than fifty (50) feet to the inch, on one (1) or more sheets, illustrating the proposed development and use, and including the following:
 - a. Location of the property by lot number, block number, and street address, if any.
 - b. The boundary lines of the property, the dimensions of the property, existing subdivision, and easements, roadways and public rights-of-way on or adjacent to the property.
 - c. The location and dimensions of all structures designed to maintain the natural flow of surface waters.
 - d. The location, height and use of all proposed and existing buildings and structures and filled areas.
 - e. The approximate location and dimensions of all proposed lots.
 - f. All existing and proposed surface and subsurface drainage facilities, waste treatment facilities, septic tank and potable well location.
 - g. Scale of drawing and north arrow.

- h. Such other information or documentation as may be necessary or appropriate to a full and proper consideration and disposition of the development application.
- (8) An aerial photograph(s) taken within one (1) year of the application at the scale of three hundred (300) feet to the inch of the subject parcel and all adjacent property within two thousand six hundred forty (2,640) feet or, if an aerial photo is not available, a vicinity sketch at the scale of three hundred (300) feet equals one (1) inch showing all existing development within two thousand six hundred forty (2,640) feet of any boundary of the subject parcel.
- (9) An environmental description of the parcel proposed for development including:
 - a. A topographical survey signed by a registered engineer or licensed land surveyor,
 - b. A general description of the existing vegetation as well as all other natural features including sloughs, tree islands, geological formation, and soil type.
- (b) *Review of application.*
 - (1) Within fifteen (15) days after an application for conditional use approval is submitted, the Director of Environmental Resources Management shall determine whether the application is complete. If the application is determined to be incomplete, a written statement specifying the deficiencies shall be sent to the applicant and no further action shall be taken on the application until the deficiencies are remedied.
 - (2) Within sixty (60) days after receipt of a complete application, the Directors of the Planning and Zoning and the Environmental Resources Management Departments shall review the application for conditional use approval and shall decide whether the proposed conditional use permit should be issued or denied and the grounds for such decision. Such review and decision shall be based on the comments and recommendations of all other relevant County departments and a determination of whether the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. The Department of Environmental Resources Management shall give notice of projects accepted for conditional use approval by publication in a newspaper of general circulation in Miami-Dade County and posting a notice on property adjacent to the proposed project. If an appeal is filed with the Department of Environmental Resources Management within ten (10) days of said publication, a public hearing before the Board of County Commissioners shall be held for the project. If no appeal is requested, a conditional use permit shall be issued by the Department of Environmental Resources Management subject to the provisions herein.
- (c) *Appeal to the Board of County Commissioners.*
 - (1) An applicant for conditional use approval under the provisions of this section may appeal the decision of the Directors of the Planning and Zoning and the Environmental Resources Management Departments to the Board of County Commissioners of Miami-Dade County.

- (2) Notice of appeal shall be filed with the Clerk of the County Commission within fifteen (15) days.
- (3) Upon receipt of a notice of appeal, the Clerk of the Commission shall place the appeal on the agenda of the next regular meeting of the Board of County Commissioners.

(d) *Action by the Board of County Commissioners.* The Board of County Commissioners of Miami-Dade County shall review the application for which an appeal has been properly filed, the decision of the Directors of the Departments of Planning and Zoning and Environmental Resources Management and any additional information which may be submitted. Following a full evidentiary hearing, the Commissioners may affirm, reverse or modify the decision of the Directors of the Departments of Environmental Resources Management and Planning and Zoning. Such affirmance, reversal or modification shall be based on the extent to which the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. An aggrieved party may appeal the decision of the Board to the Circuit Court with the applicable Florida Rules of Appellate Procedure.

Sec. 33B-28. Same--General standards.

A conditional use permit may be granted only if the applicant demonstrates that:

- (a) The conditional use is consistent with the purposes, goals, objectives and standards of the East Everglades Management Plan;
- (b) The design of the proposed development minimizes adverse effects, including visual impacts of the proposed use on adjacent properties;
- (c) The proposed use will not have singular or cumulative adverse effect on the value of adjacent property;
- (d) The proposed use, singly or cumulatively, will not unduly burden essential public facilities and services including roadways, parking spaces, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools;
- (e) The proposed use, singly or cumulatively, will not have any of the following irreversible effects on the ecological integrity of the East Everglades:
 - (1) Harmful obstruction or undesirable alteration of the natural flow of water within the area of work.
 - (2) Harmful or increased erosion, or adverse environmental impact resulting from changes in water quality or quantity.
 - (3) Adverse impact upon wetland flora and fauna within adjacent parcels.
 - (4) Adverse impact upon wetland flora and fauna within those portions of the subject property not proposed for development under the application.
 - (5) Material injury to adjoining land.

Sec. 33B-29. Vested rights.

- (a) Notwithstanding any other provision of this division, any landowner who claims a vested right to develop his property at a density greater than permitted under this division may submit an application for a determination of vested rights to the Department of Planning and Zoning during the effective period of this division.
- (b) Any person who claims a vested right shall file an application for a determination of vested rights with the Department of Planning and Zoning, and shall attach a sworn affidavit setting forth the facts upon which the applicant bases his claim for vested rights. In addition to any other submission required by the Department of Planning and Zoning, the applicant shall include copies of any contracts, letters and other documents upon which a claim of vested rights is based. The mere existence of zoning prior to the effective date of this division shall not vest rights. Grandfathered rights which preceded this division shall be extinguished.
- (c) The Department of Planning and Zoning shall review the application and determine whether the applicant has demonstrated:
 - (1) An act of development approval by an agency of Miami-Dade County,
 - (2) Upon which the developer has in good faith relied to his detriment,
 - (3) Such that it would be highly inequitable to deny the landowner the right to complete the previously approved development.
- (d) Effect of vested rights determination. A determination that a landowner is entitled to a vested right to develop at a density greater than permitted under this division does not except the development from compliance with the standards set forth in Section 33B-26 of this division.

G. NEIGHBORHOOD SERVICES:

	Objects
DERM	No objection
Public Works	No objection
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment

H. ANALYSIS:

On November 15, 2005, Community Zoning Appeals Board – 14 (CZAB-14) approved this application by a vote of 3-1. On November 23, 2005, the Director of the Department of Planning and Zoning appealed the CZAB-14's decision indicating that the CZAB-14's decision is inconsistent with the Miami-Dade County Comprehensive Development Master Plan (CDMP).

The subject property is located on the north side of theoretical S.W. 125 Street between SW 199 Avenue and theoretical SW 200 Avenue. This application seeks to permit a site with less area than required by the Zoning Code in Management Area 1, known as the East

Everglades. Said property is located approximately 3.5 miles west of the Urban Development Boundary (UDB) line and west of Containment Levee-31N.

The Department of Environmental Resources Management (**DERM**) has determined that this application does not meet the minimum requirements for residential use within Management Area 1 of the Area of Critical Environmental Concern. Additionally, DERM advises that the property is located in an area that receives no flood protection and therefore, it does not meet the Level of Service (LOS) standards for flood protection specified in the CDMP and may not be approved for concurrency for flood protection. Therefore, DERM **objects** to this application. The **Public Works Department** has **no objections** to this application and states that it will not generate any additional daily peak hour vehicle trips.

If approved, this application would allow the applicant the maintenance and continued use of an existing single family residence on this substandard-sized GU lot in the East Everglades. The parcel was issued a building permit in 1989 for a barn building and a declaration of use agreement was recorded on February 27, 1989 in official record book #14012 at page 578-580. In the agreement made between the applicant and Miami-Dade County, the applicant committed to use the barn for storage for agricultural purposes only and further agreed that no residential use would be made of the barn or the property. However, the barn was illegally converted into a single family residence in direct violation of the applicant's commitment to the County. Additionally, the applicant has not applied for or provided for entitlements to the conditional uses permitted under Section 33B-25. Said section permits single-family detached dwelling units at a density no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event and that all the conditions of Section 33B-28 are met. This area did not have an established residential character as of January 14, 1981 as evidenced by the attached 1981 aerial photograph and the 1989 permit for a barn for agricultural purposes only and the 1989 declaration of use ensuring same. Additionally, staff has not received any documentation that the property affords sufficient protection from a one-in-ten-year flood event. Staff is of the opinion that this application does not meet the criteria of Sections 33B-25 and 33B-28 since the proposed use is inconsistent with the purposes, goals, objectives and standards of the East Everglades Management Plan and may irreversibly affect the ecological integrity of the East Everglades due to the adverse environmental impacts resulting from changes in water quality caused when drinking water wells become contaminated with domestic sewage.

Further, the applicant has not applied for or provided for entitlements to vested rights as provided under Section 33B-29. The applicant would have to provide to the Department of Planning and Zoning documentation setting forth the facts upon which he bases his claim for vested rights. The Department of Planning and Zoning would then review the application and determine whether the applicant has demonstrated an act of development approval by an agency of Miami-Dade County upon which the developer has in good faith relied to his detriment such that it would be highly inequitable to deny the landowner the right to complete the previously approved development. Staff notes that the only development approved by the County on this property, and agreed upon by the applicant, was for a barn structure for agricultural use only.

The Comprehensive Development Master Plan (CDMP) designates this area as Open Land on the Land Use Plan (LUP) map. The CDMP states that any parcel to be used for residential purposes must have a minimum of 40 gross acres in this LUP map designation. The applicant is requesting to permit a residence on a parcel of land with a lot area of 7.78 gross acres in what the CDMP text designates as Management Area 1 of the East Everglades. The plans submitted as part of this application depict the development of the site with an existing single family residence consisting of three bedrooms and two bathrooms. Staff has opposed most residential uses in this area since the 1981 passage of the East Everglades Ordinance and finds no justification to warrant an exception for this 7.78 gross acre parcel. The primary purpose of the East Everglades Ordinance was to minimize population growth in an area which is subject to periodic flooding. The intent of the density restriction under the Ordinance is to prevent the problems that arise from the cumulative adverse environmental impacts of residential usage within an area that receives no flood protection. These problems include the need for a considerable infusion of public resources during flooding events, the health risks which arise when drinking water wells become contaminated with domestic sewage, the demands for publicly-financed flood control which inevitably occurs subsequent to flooding events, and the damage to private property which will occur when individuals make physical improvements in areas with high flood risks and no floodwater removal capacity.

As previously stated, **DERM** recommends that this application be denied in its entirety. As stated in their memorandum, approval of this application would set a precedent for allowing intensified development that would introduce the proliferation of septic tanks on less than forty acres, would result in potential health hazards, and may not be approved for concurrency for flood protection.

This application does not meet the Alternative Site Development Option (ASDO) Standards outlined in Section 33-311(A)(14) since it is zoned GU and designated for **open land uses** on the Land Use Plan (LUP) map of the CDMP, and the proposed area is less than 90% of that required by the regulations. Therefore the application should be denied without prejudice under the ASDO Standards.

If analyzed under the Alternative Non-Use Variance Standards (Section 33-311(A)(4)(c)), the applicant has not proven that enforcement of the provisions of the zoning code will result in unnecessary hardship, since, the applicant is able to use the property for agricultural purposes and was permitted a barn building in accordance with the recorded declaration of restrictions. As such, this application cannot be approved under the Alternative Non-Use Variance Standards and should be denied without prejudice under same.

When analyzed under the Non-Use Variance Standards (Section 33-311(A)(4)(b), this application does not maintain the basic intent and purpose of the land use regulations, is **inconsistent** with the CDMP and **incompatible** with the surrounding area. Approval of this application could be detrimental to the community since it could set a precedent that would lead to future requests to further parcelize this flood-prone area which would result in numerous health and safety issues. In consideration of all of the aforementioned, staff recommends approval of the appeal and denial without prejudice of the original application.

I. **RECOMMENDATION:** Approval of the appeal and denial without prejudice of the application.

J. **CONDITIONS:** None.

DATE INSPECTED: 04/11/05

DATE TYPED: 04/18/05

DATE REVISED: 04/21/05; 04/29/05; 05/23/05; 06/06/05; 06/16/05; 06/20/05; 06/21/05;
08/30/05; 10/12/05; 11/04/05; 11/09/05; 12/23/05; 01/09/06; 01/13/06;
01/18/06, 02/10/06

DATE FINALIZED: 01/18/06, 02/10/06

DO'QW:AJT:MTF:LVT:JV:JED



Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

Attachment: 1981 aerial
1989 Declaration of Restrictions
Resolution CZAB14-46-05

Memorandum



Date: June 23, 2005

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: John W. Renfrow, P.E., Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "John W. Renfrow", with a long horizontal stroke extending to the right.

Subject: C-14 #Z2005000037-Revised
Emilio Garcell
12350 & 12400 SW 199 Ave
Non-Use Variance of Lot Area Requirements for an Existing Single Family Residence
(GU) (7.78 Ac.)
15-55-38

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that the request meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code); therefore, the application may be scheduled for public hearing.

However, the subject site is located in an area that receives no flood protection, and therefore is likely to experience frequent flooding that persists for extended periods of time. It is DERM's staff opinion that the use of septic systems in an area with a high potential for flooding, will likely result in a human health hazard as well as the degradation of surface and ground water quality. In addition, DERM notes that the Zoning Overlay Ordinance outlines that a density of no greater than one (1) unit per five (5) acres can be approved, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten year flood event. This flood control facility does not exist. Accordingly, DERM recommends denial of the application.

Potable Water Supply and Wastewater Disposal:

The closest public water and public sanitary sewers are located approximately 4.4 miles from the site. Therefore, any land use on the property requiring sanitary facilities would have to be served by an on-site drinking water supply well and a septic tank.

The use of an on-site drinking water supply well may only be approved if groundwater quality in the area is such that drinking water standards can be met by the proposed water supply facility. The applicant is advised that a minimum separation distance of 100 feet is required from septic tanks and drainfields and from all surface waters. Furthermore, any on-site drinking water supply well may only be approved subject to compliance with the minimum drinking water standards for a potable water supply well, including DERM review and approval of the on-site well and water treatment system. The applicant shall also obtain an annual operating permit from the Water Supply Section of DERM for the said system.

Section 24-43.1 of the Code provides that the use of a septic tank as a means for the disposal of domestic liquid waste in conjunction with an on-site drinking water supply well, may only be approved if the property contains at least 20,328 square feet of unsubmerged land.

Notwithstanding the foregoing, DERM staff believes that the aforesaid Code provisions are intended for property that receives flood protection. As previously stated, the subject site is located in an area that receives no flood protection and consequently, has the potential of remaining flooded for prolonged periods. Staff believes that during these extended periods of flooding, the septic tank effluent may short circuit to the on-site drinking water well via the standing waters, thus becoming a health hazard for this property as well as for the neighboring ones.

DERM staff further believes that approval of the subject application would set a precedent for allowing intensified development that would induce the proliferation of septic tanks on less than forty acres; and furthermore, would be inconsistent with the language and intent of the Zoning Overlay Ordinance. Accordingly, DERM recommends that the application be denied.

Stormwater Management:

The subject property is located in area that receives no flood protection; therefore, it may not be approved for concurrency for flood protection.

Wetland Permitting Comments:

Although the subject property lies within a jurisdictional wetland basin, it does not contain jurisdictional wetlands.

Tree Preservation:

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. Consequently, DERM will require the preservation of all specimen-sized trees, as defined in the Code, on the site. A Miami-Dade County tree removal permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

The Department has conducted a concurrency review for this application and has determined that the same meets all applicable Levels of Service (LOS) standards as specified in the adopted Comprehensive Master Plan (CDMP) for potable water and supply and wastewater disposal.

However, since the property is located within an area that has no flood protection, the application does not meet the LOS standards for flood protection specified in the CDMP. Therefore, the application cannot be approved for concurrency.

In summary, the application meets the minimum requirements of Chapter 24 of the Code. Therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written consent to that effect as required by the Code. Notwithstanding the foregoing, DERM staff believes that approval of the application may result in an unwarranted source of contamination of surface and groundwater; accordingly, DERM recommends denial of the same.

cc: Lynne Talleda, Zoning Evaluation- P&Z
Ron Connally, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

PH# Z2005000037
CZAB - C14

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: EMILIO GARCELL

This Department has no objections to this application.

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This meets the traffic concurrency criteria set for an Initial Development Order.

A handwritten signature in black ink, appearing to read "Raul", with a stylized flourish extending to the right.

Raul A Pino, P.L.S.

17-FEB-05

1989 FEB 27 PM 3:29

89R068098

OFF REC 14012 PS 578

DECLARATION OF USE

In consideration of a barn building permit, as hereinafter outlined, I, or we, as owners of the property herein designated, hereby agree and bind myself, or ourselves, and my, or our, heir assignees, and successors as follows:

That the ~~shed~~ ^{Barn} for which permit is issued is to be used only for storage for agricultural purposes and in the event the property herein described is not used for farming the ~~shed~~ shall be demolished. No residential use will be made of the property or the shed.

On Lot _____, Block _____ of _____ P.B. _____ P. _____ of the Public Records of Dade County, Florida. The N 1/2 of the NE 1/4 of the SW 1/4 of the NE 1/4 of Section 15, Township 55 South, Range 38 East, lying and being in Dade County, Florida. also known as 12400 S.W. 199TH AVENUE, Dade County, Florida.

This agreement is hereby made and accepted as a condition of the issuance of a permit for: The construction of a barn "SEE FLOOR PLAN ATTACHED"

It is further understood and agreed that this agreement shall be deemed a covenant running with the land, and shall remain in full force and effect, and be binding upon the undersigned, their heirs, and assigns until such time as the same may be released in writing by the Director of the Dade County Planning, Zoning, Building Department, or such director or executive officer of the successor of such department, or, in the absence of such director or executive officer, by his assistant in charge of the office in his absence.

As further part of this agreement, it is hereby understood and agreed that any official inspector of the Dade County Planning, Zoning or Building Division or its agents duly authorized, may have the privilege at any time of entering and investigating the use of the premises, to determine whether or not all the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

Emilio Garcel 05-37

1000

22

ACKNOWLEDGEMENT

OFF REC 14012 PS 579

Signed, sealed, executed and acknowledged on this 27TH day of JANUARY A.D., 1989, at Miami, Florida.

WITNESSES:

Maria Reyes
Andres Lopez
Benigno Santana
La Rue Valliere

Emilio H. Garcell
Husband
Caridad Garcell
Wife

STATE OF FLORIDA)

COUNTY OF DADE)

I HEREBY certify that on this 27th day of January A.D. 1989 before me personally appeared Emilio H. Garcell and Caridad Garcell, his wife, to me known to be the persons described in and who executed the foregoing instrument and they acknowledged to me the execution thereof to be their free act and deed for the uses and purposes therein mentioned;

WITNESS my signature and official seal at Miami, in the County and State aforesaid, the date and year last aforesaid.-

Diane R. [Signature]
NOTARY PUBLIC IN AND FOR THE STATE
OF FLORIDA AT LARGE

My Commission expires:

Notary Public State of Florida at Large.
My Commission Expires Oct. 15, 1989



JAN. 26.1981 AERIAL

24

PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY DS AMOUNT OF FEE \$

RECEIPT #

DATE HEARD: 11/15/05

BY CZAB # 14

RECEIVED
NOV 23 2005

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY DS

DATE RECEIVED STAMP

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. Z05-037 (05-7-CZ14-7)

Filed in the name of (Applicant) Caridad & Emilio Garcell

Name of Appellant, if other than applicant Director, Dept. of Planning & Zoning

Address/Location of APPELLANT'S property: 111 NW 1st St., 11th floor, Miami, Fla. 33128

Application, or part of Application being Appealed (Explanation) Entire application

Appellant (name): Director, Dept. of Planning & Zoning

hereby respectfully appeals the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby makes application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows:

(State in brief and concise language).

The Community Zoning Appeals Board-14's decision is inconsistent with the Miami Dade County Comprehensive Development Master Plan

APPELLANT MUST SIGN THIS PAGE

Date: 23rd day of November, year: 2005

Signed Diane O'Quinn Williams

Diane O'Quinn Williams

Print Name

111 NW 1st. St. 11th Floor, Miami, FL 33128
Mailing Address

(305) 375-2840 (305) 375-2795
Phone Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an association or other entity, so indicate:

Representing

Signature

Print Name

Address

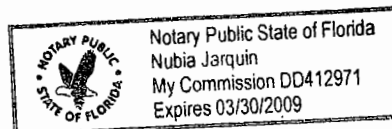
City State Zip

Telephone Number

Subscribed and Sworn to before me on the 23rd day of November, year 2005

Nubia Jarquin
Notary Public

(stamp/seal)



Commission expires:

RESOLUTION NO. CZAB14-46-05

WHEREAS, **EMILIO GARCELL** applied for the following:

Applicant is requesting to permit a single-family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

Upon a demonstration that the applicable standards have been satisfied, approval of this request may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A plan is on file and may be examined in the Zoning Department entitled "Proposed Legalization Residence for: Mr. & Mrs. Emilio & Caridad Garcell," as prepared by Miami Engineering Co. consisting of 1 sheet and dated stamped received 2/9/05. Plan may be modified at public hearing.

SUBJECT PROPERTY: The north ½ of the NE ¼ of the SW ¼ of the NE ¼ and the south ½ of the south ½ of the SE ¼ of the NW ¼ of the NE ¼, all in Section 15, Township 55 South, Range 38 East.

LOCATION: 12350 & 12400 S.W. 199 Avenue, Miami-Dade County, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 14 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, upon due and proper consideration having been given to the matter it is the opinion of this Board that the request to permit a single-family residence on a lot with an area of 7.78 gross acres would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and

WHEREAS, a motion to approve the application was offered by Curtis Lawrence, seconded by Rose L. Evans-Coleman, and upon a poll of the members present, the vote was as follows:

Samuel Ballinger	absent	Rose L. Evans-Coleman	aye
Wilbur B. Bell	aye	Don Jones	absent
Dawn Lee Blakeslee	absent	Curtis Lawrence	aye

Dr. Pat Wade	nay
--------------	-----

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 14 that the request to permit a single-family residence on a lot with an area of 7.78 gross acres be and the same is hereby approved.

BE IT FURTHER RESOLVED, notice is hereby given to the applicant that the approval herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 15th day of November, 2005.

Hearing No. 05-7-CZ14-7
ls

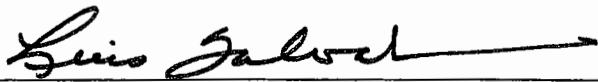
THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 22ND DAY OF NOVEMBER, 2005.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Luis Salvat, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 14, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB14-46-05 adopted by said Community Zoning Appeals Board at its meeting held on the 15th day of November 2005.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 22nd day of November, 2005.

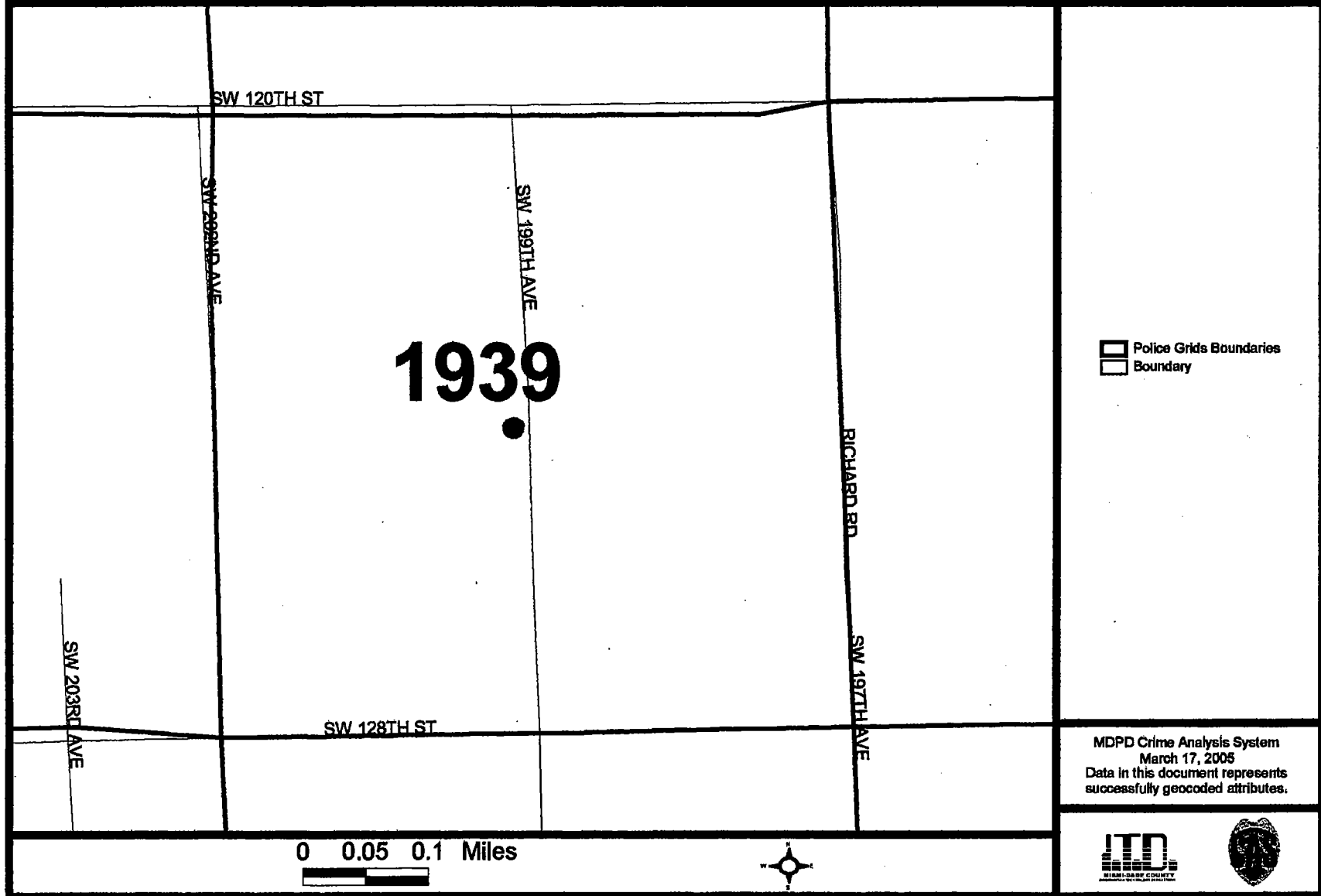


Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning

SEAL



Miami-Dade Police Department
Target Area - Police Grid(s): 1939
Emilio Garcell; Hearing # 05-037





Miami-Dade Police Department

Miami-Dade Police Department

Address Query for Events occurring at 12400 SW 199 Av

For Thru

Crime Information Warehouse

Filter: Dis.Complaint Date >= "2003-03-14" and Dis.Complaint Date < "2005-03-15" and Dis.Police District Code in ("A", "B", "C", "D", "E", "H", "I", "J", "K", "L", "M", "N", "P", "Q", "R", "ZZ") and Dis.Incident
ss contains "12400 SW 199 Av" and Dis.Reporting Agency Code = substring ("030", 1, 3) and Common and Dis.Signal Code in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27",
"29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55")

Incident Address	Dis	Grid	A O P	Complaint Date	Day of Wk	Call Rcvd Time	Complaint Name	Case Number	Sig Pre	Sig Suf	Rcvd Time	Disp Time	1st Arriv Time	1st Arriv Unit	Event Number	Rp Wr YN
		1939														



Miami-Dade Police Department Zoning Hearing Report - Dispatch Information For 2003 and 2004



Miami-Dade Police Department

Detail Filter: (Dis.Complaint Date >= FirstDate and Dis.Complaint Date < LastDate) and (Dis.Grid in ("1350", "1430", "1472", "1795", "1939", "1954", "2276", "2404", "2421", "2435")) and (Dis.Signal Code in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55") or ('ALL' in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55"))) and Common

		2003	2004	
Grid	Signal Code	Signal Description		
1939	13	SPECIAL INFORMATION/ASSIGNMENT	4	0
	14	CONDUCT INVESTIGATION	6	4
	15	MEET AN OFFICER	13	4
	21	LOST OR STOLEN TAG	1	0
	22	AUTO THEFT	2	0
	25	BURGLAR ALARM RINGING	2	0
	26	BURGLARY	1	3
	34	DISTURBANCE	1	3
	41	SICK OR INJURED PERSON	0	1
	45	DEAD ON ARRIVAL	1	0
Total Signals for Grid 1939 :			31	15

32



MIAMI-DADE POLICE DEPARTMENT
Zoning Hearing Report Part I and Part II Crimes w/o AOA
For Specific Grids
For 2003 and 2004



Miami-Dade Police Department

Grid(s): 0131, 0745, 0792, 0799, 0919, 1143, 1144, 1350, 1430, 1431, 1436, 1471, 1472, 1588, 1633, 1666, 1749, 1786, 1795, 1889, 1920, 1939, 1954, 2064, 2234, 2276, 2404, 2409, 2421, 2449, 2512, 2554, 2597, 2607, 2611, 2737

2003 2004

Grid 1939					
Part I					
	2400		MOTOR VEHICLE THEFT	1	0
	230G		SHOPLIFTING ALL OTHERS	1	0
Part I TOTAL				2	0
Part II					
	2000		ARSON	0	1
	130B		SIMPLE ASSAULT	1	0
Part II TOTAL				1	1
Grid 1939 TOTAL				3	1

Memorandum



Date: 15-NOV-05

To: Diane O'Quinn Williams, Director
Department of Planning and Zoning

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue

Subject: Z2005000037

Fire Prevention Unit:

Fire Water & Engineering has no objection to plans presented with letter of intent dated February 8 2005. Applicant must submit changes to this plan for review and approval. Final site plan approval will be required.

Service Impact/Demand:

Development for the above Z2005000037
located at 12400 S.W. 199 AVENUE, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 1939 is proposed as the following:

<u>1</u> single	dwelling units	<u> </u> industrial	square feet
<u> </u> multifamily	dwelling units	<u> </u> institutional	square feet
<u> </u> commercial	square feet	<u> </u> nursing home	square feet

Based on this development information, estimated service impact is: 0.27 alarms-annually.

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 56 - West Sunset - 16250 SW 72 Street
Rescue, ALS Engine Haz Mat Support

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
None.

Fire Planning Additional Comments:

Current service impact calculated based on letter of intent dated February 8 2005. Substantial changes to the letter of intent will require additional service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

EMILIO GARCELL

12400 S.W. 199 AVENUE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

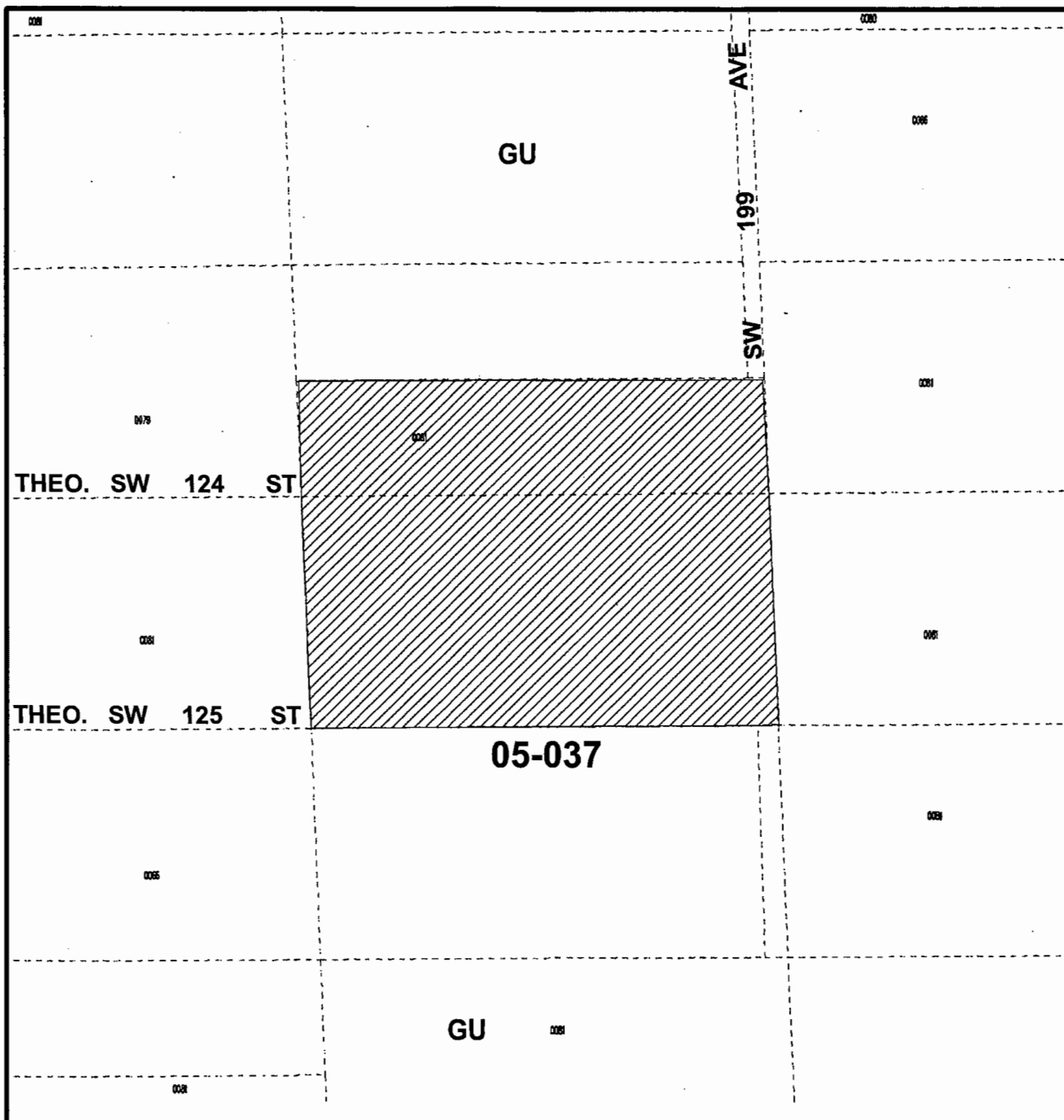
ADDRESS

Z2005000037

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

No open Team Metro cases.



**MIAMI-DADE COUNTY
HEARING MAP**

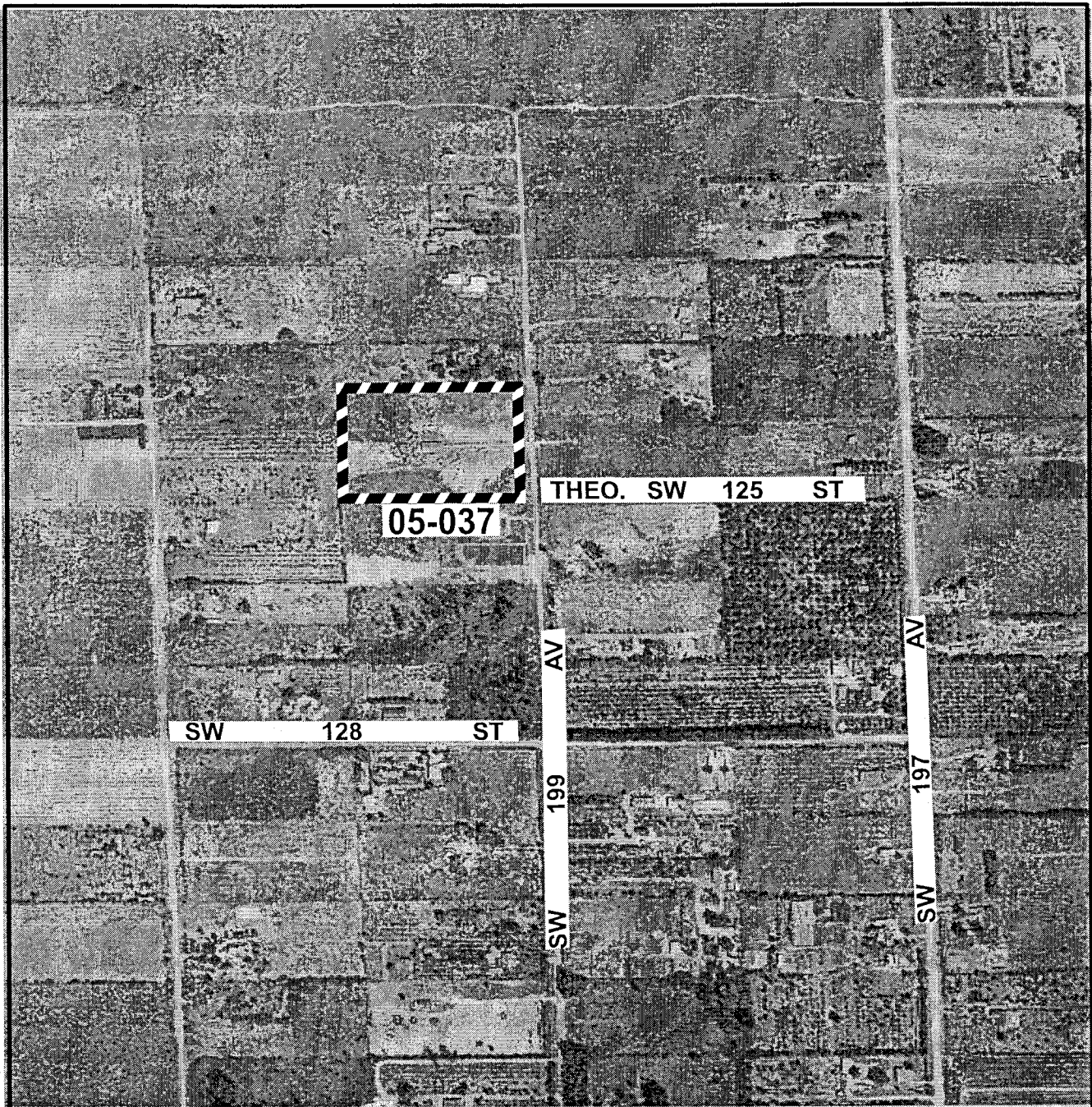
**Section: 15 Township: 55 Range: 38
Process Number: 05-037
Applicant: EMILIO GARCELL
Zoning Board: C14
District Number: 9
Drafter ID: KEELING
Scale: 1:200'**

S C A L E
0 200'



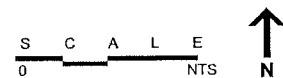
 SUBJECT PROPERTY





MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 55 Range: 38
Process Number: 05-037
Applicant: EMILIO GARCELL
Zoning Board: C14
District Number: 09
Drafter ID: KEELING
Scale: NTS



C. EMILIO GARCELL
(Applicant)

05-7-CZ14-7 (05-37)
Area 14/District 9
Hearing Date: 11/15/05

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☐ /lease ☐ the property predicated on the approval of the zoning request? Yes ☐ No ☒

Disclosure of interest form attached? Yes ☐ No ☒

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
--------------------	-------------------------	-----------------------	---------------------	------------------------

NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 14
MOTION SLIP

7

APPLICANT'S NAME: EMILIO GARCELL

REPRESENTATIVE: APPLICANT

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
05-7-CZ14-7 (05-37)	JULY 7, 2005	CZAB14		05

REQ: single-family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

REC: DWOP

<input type="checkbox"/>	WITHDRAW:	<input type="checkbox"/>	APPLICATION	<input type="checkbox"/>	ITEM(S):	
<input checked="" type="checkbox"/>	DEFER:	<input type="checkbox"/>	INDEFINITELY	<input checked="" type="checkbox"/>	TO: <u>OCT. 17, 2005</u>	<input type="checkbox"/> W/LEAVE TO AMEND
<input type="checkbox"/>	DENY:	<input type="checkbox"/>	WITH PREJUDICE	<input type="checkbox"/>	WITHOUT PREJUDICE	
<input type="checkbox"/>	ACCEPT PROFFERED COVENANT		<input type="checkbox"/>	ACCEPT REVISED PLANS		
<input type="checkbox"/>	APPROVE:	<input type="checkbox"/>	PER REQUEST	<input type="checkbox"/>	PER DEPARTMENT	<input type="checkbox"/> PER D.I.C.
		<input type="checkbox"/>	WITH CONDITIONS			
<input type="checkbox"/>						

TITLE	M/S	NAME	YES	NO	ABSENT
MR.		Samuel L. BALLINGER			X
MR.	M	Wilbur B. BELL	X		
MS.	S	Dawn Lee BLAKESLEE	X		
MS.		Rose L. EVANS-COLEMAN	X		
MR.		Don JONES			X
VICE-CHAIRMAN		Curtis LAWRENCE (C.A.)			X
MADAME CHAIRPERSON		DR. Pat WADE	X		
VOTE:			4	0	

EXHIBITS: ☐ YES ☒ NO

COUNTY ATTORNEY: THOMAS ROBERTSON

**MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 14
MOTION SLIP**

APPLICANT'S NAME: EMILIO GARCELL

B

REPRESENTATIVE: MR. & MRS. GARCELL

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
05-7-CZ14-7 (05-37)	OCTOBER 17, 2005	CZAB14		05

REQ: SFR on a lot with an area of 7.78 gross acres (40 gross acres required).

REC: DWOP

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S): _____
<input checked="" type="checkbox"/> DEFER:	<input type="checkbox"/> INDEFINITELY	<input checked="" type="checkbox"/> TO: <u>NOV. 15, 2005</u> <input type="checkbox"/> W/LEAVE TO AMEND
<input type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input type="checkbox"/> WITHOUT PREJUDICE
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS	
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT <input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS	
<input type="checkbox"/>		

TITLE	M/S	NAME	YES	NO	ABSENT
MR.		Samuel L. BALLINGER			X
MR.	M	Wilbur B. BELL	X		
MS.	S	Dawn Lee BLAKESLEE	X		
MS.		Rose L. EVANS-COLEMAN			X
MR.		Don JONES			X
VICE-CHAIRMAN		Curtis LAWRENCE (C.A.)	X		
MADAME CHAIRPERSON		DR. Pat WADE	X		
VOTE:			4	0	

EXHIBITS: ☐ YES ☒ NO

COUNTY ATTORNEY: THOMAS ROBERTSON

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL NO. 14**

APPLICANT: Emilio Garcell

PH: Z05-037 (05-7-CZ14-7)

SECTION: 15-55-38

DATE: November 15, 2005

COMMISSION DISTRICT: 9

ITEM NO.: C

A. INTRODUCTION

o **REQUEST:**

Applicant is requesting to permit a single family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

Upon a demonstration that the applicable standards have been satisfied, approval of the request may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A plan is on file and may be examined in the Zoning Department entitled "Proposed Legalization Residence for: Mr. & Mrs. Emilio & Caridad Garcell," as prepared by Miami Engineering Co. and dated 2-8-05. The plan may be modified at public hearing.

o **SUMMARY OF REQUEST:**

This application seeks to permit a buildable site for a single-family home with less area than required by the Miami-Dade Zoning Code.

o **LOCATION:**

12400 S.W. 199 Avenue, Miami-Dade County, Florida.

o **SIZE:** 7.78 gross acres.

o **IMPACT:**

The approval of this application will allow the applicant the maintenance and continued use of an existing single-family residence on this site. This application would detrimentally impact the community.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2005 and 2015 Land Use Plan designates the subject property for **Open Land**.

2. Open Land Subarea 4 (East Everglades Residential Area). This subarea is bounded on the north, west and southwest by Environmental Protection Subarea B, on the east by Levee 31 N, and on the south by SW 168 Street. Uses which may be considered for approval in this area are seasonal agriculture and rural residences at a density of 1 dwelling unit per 40 acres, or 1 dwelling unit per 20 acres if ancillary to an established agricultural operation, or 1 dwelling unit per 5 acres, after such time as drainage facilities become available to protect this area from a one-in-ten year flood event in keeping with the adopted East Everglades zoning overlay regulation (Section 33B, Code of Miami-Dade County) and compatible and necessary utility facilities. Uses that could compromise groundwater quality shall not occur in this area. (Land Use Element, page I-52).

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

GU; single family residence

Open Land Subarea 4

Surrounding Properties:

NORTH: GU; vacant

Open Land Subarea 4

SOUTH: GU; single family residence

Open Land Subarea 4

EAST: GU; vacant

Open Land Subarea 4

WEST: GU; vacant

Open Land Subarea 4

The subject parcel is located between SW 199 Avenue and SW 202 Avenue on the north side of theoretical SW 125 Street. The area where the subject property lies is characterized by vacant parcels. A single family lies to the south of the subject property.

E. SITE AND BUILDINGS:

Site Plan Review:

(plan submitted)

Scale/Utilization of Site:

Unacceptable

Location of Buildings:

Unacceptable

Compatibility:

Unacceptable

Landscape Treatment:

Unacceptable

Open Space:

Unacceptable

Buffering:

Unacceptable

Access:

Acceptable

Parking Layout/Circulation:

N/A

Visibility/Visual Screening:

N/A

Energy Considerations:

N/A

Roof Installations:

N/A

Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 33-311(A)(14) Alternative Site Development Option for Single Family and Duplex Dwellings

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts.

(d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:

- (1) the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:
 - A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and
 - B. the proposed alternative development will not result in the further subdivision of land; and
 - C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (2) the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:

- A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and
 - B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and
 - C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (3) the proposed lot area, frontage or depth is such that:
- A. the proposed alternative development will not result in the creation of more than three (3) lots; and
 - B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - C. no lot area shall be less than the smaller of:
 - i. ninety percent (90%) of the lot area required by the underlying district regulations; or
 - ii. the average area of the developed lots in the immediate vicinity within the same zoning district; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

- (4) if the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:
- A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and
 - B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area.
 - C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with the agricultural designation; and
 - E. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (g) Notwithstanding the foregoing, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- 1. will result in a significant diminution of the value of property in the immediate vicinity; or
 - 2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
 - 3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or
 - 4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations by Section 33B-45 of this code.

Section 33-311(A)(4)(b) Non-Use Variance Standard. Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c) Alternative Non-Use Variance Standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

Sec. 33B-25. Authorized uses.

(A) Management Area 1:

(1) *Permitted uses:*

- (a) Agricultural use, and
- (b) Agricultural support housing at a density of no greater than one (1) unit per forty (4) acres, or
- (c) Single-family detached dwelling units at a density of no greater than one (1) unit per forty (40) acres.

(2) *Conditional uses:*

- (a) Single-family detached dwelling units at a density of no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event. This area is defined as all of Sections 14, 21, 22, 23, 27, 28; the south one-half of Section 11 and the south one-half of the north one-half of Section 11; the east one-half of Section 15; the east one-half of Section 16; all land in Section 26 which lies northerly and westerly of Levee L-31-N; the east one-half of the east one-half of Section 29; all within Township 55 South and Range 38 East.
- (b) Residential dwelling units at a density of no greater than one (1) dwelling unit per twenty (20) acres, provided that:
 - 1. The dwelling unit is ancillary to an established agricultural operation involving less than forty (40) acres, and
 - 2. Occupancy of the dwelling is limited to the owner, operator or employees of the established agricultural operation, and
 - 3. The parcel was not in common ownership with any adjacent parcel of land on or after January 14, 1981.

Sec. 33B-27. Conditional uses--Application process.

(a) *Application contents.* An application for a permit for development approval for a conditional use authorized by Section 33B-25 of this division shall be submitted to the Department of Environmental Resources Management in accordance with the provisions of this section and shall be accompanied by a nonrefundable fee in an amount to be established from time to time by the Board of County Commissioners of Miami-Dade County. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Department of Environmental Resources Management and the Department of Planning and Zoning and shall contain at least the following information:

- (1) Name and address of applicant;
- (2) Legal description and lot number of the property which is the subject of the application;
- (3) Statement of ownership;
- (4) Size of the subject property;
- (5) A written statement describing in general terms the proposed development;
- (6) A written statement setting forth how the proposed development meets each standard specified in Section 33B-28 for the conditional use;
- (7) A site plan at a scale of not more than fifty (50) feet to the inch, on one (1) or more sheets, illustrating the proposed development and use, and including the following:
 - a. Location of the property by lot number, block number, and street address, if any.
 - b. The boundary lines of the property, the dimensions of the property, existing subdivision, and easements, roadways and public rights-of-way on or adjacent to the property.
 - c. The location and dimensions of all structures designed to maintain the natural flow of surface waters.
 - d. The location, height and use of all proposed and existing buildings and structures and filled areas.
 - e. The approximate location and dimensions of all proposed lots.
 - f. All existing and proposed surface and subsurface drainage facilities, waste treatment facilities, septic tank and potable well location.
 - g. Scale of drawing and north arrow.
 - h. Such other information or documentation as may be necessary or appropriate to a full and proper consideration and disposition of the development application.

(8) An aerial photograph(s) taken within one (1) year of the application at the scale of three hundred (300) feet to the inch of the subject parcel and all adjacent property within two thousand six hundred forty (2,640) feet or, if an aerial photo is not available, a vicinity sketch at the scale of three hundred (300) feet equals one (1) inch showing all existing development within two thousand six hundred forty (2,640) feet of any boundary of the subject parcel.

(9) An environmental description of the parcel proposed for development including:

- a. A topographical survey signed by a registered engineer or licensed land surveyor,
- b. A general description of the existing vegetation as well as all other natural features including sloughs, tree islands, geological formation, and soil type.

(b) *Review of application.*

(1) Within fifteen (15) days after an application for conditional use approval is submitted, the Director of Environmental Resources Management shall determine whether the application is complete. If the application is determined to be incomplete, a written statement specifying the deficiencies shall be sent to the applicant and no further action shall be taken on the application until the deficiencies are remedied.

(2) Within sixty (60) days after receipt of a complete application, the Directors of the Planning and Zoning and the Environmental Resources Management Departments shall review the application for conditional use approval and shall decide whether the proposed conditional use permit should be issued or denied and the grounds for such decision. Such review and decision shall be based on the comments and recommendations of all other relevant County departments and a determination of whether the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. The Department of Environmental Resources Management shall give notice of projects accepted for conditional use approval by publication in a newspaper of general circulation in Miami-Dade County and posting a notice on property adjacent to the proposed project. If an appeal is filed with the Department of Environmental Resources Management within ten (10) days of said publication, a public hearing before the Board of County Commissioners shall be held for the project. If no appeal is requested, a conditional use permit shall be issued by the Department of Environmental Resources Management subject to the provisions herein.

(c) *Appeal to the Board of County Commissioners.*

(1) An applicant for conditional use approval under the provisions of this section may appeal the decision of the Directors of the Planning and Zoning and the Environmental Resources Management Departments to the Board of County Commissioners of Metropolitan Miami-Dade County.

(2) Notice of appeal shall be filed with the Clerk of the County Commission within fifteen (15) days.

(3) Upon receipt of a notice of appeal, the Clerk of the Commission shall place the appeal on the agenda of the next regular meeting of the Board of County Commissioners.

(d) *Action by the Board of County Commissioners.* The Board of County Commissioners of Miami-Dade County shall review the application for which an appeal has been properly filed, the decision of the Directors of the Departments of Planning and Zoning and Environmental Resources Management and any additional information which may be submitted. Following a full evidentiary hearing, the Commissioners may affirm, reverse or modify the decision of the Directors of the Departments of Environmental Resources Management and Planning and Zoning. Such affirmance, reversal or modification shall be based on the extent to which the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. An aggrieved party may appeal the decision of the Board to the Circuit Court with the applicable Florida Rules of Appellate Procedure.

Sec. 33B-28. Same--General standards.

A conditional use permit may be granted only if the applicant demonstrates that:

- (a) The conditional use is consistent with the purposes, goals, objectives and standards of the East Everglades Management Plan;
- (b) The design of the proposed development minimizes adverse effects, including visual impacts of the proposed use on adjacent properties;
- (c) The proposed use will not have singular or cumulative adverse effect on the value of adjacent property;
- (d) The proposed use, singly or cumulatively, will not unduly burden essential public facilities and services including roadways, parking spaces, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools;
- (e) The proposed use, singly or cumulatively, will not have any of the following irreversible effects on the ecological integrity of the East Everglades:
 - (1) Harmful obstruction or undesirable alteration of the natural flow of water within the area of work.
 - (2) Harmful or increased erosion, or adverse environmental impact resulting from changes in water quality or quantity.
 - (3) Adverse impact upon wetland flora and fauna within adjacent parcels.
 - (4) Adverse impact upon wetland flora and fauna within those portions of the subject property not proposed for development under the application.
 - (5) Material injury to adjoining land.

Sec. 33B-29. Vested rights.

- (a) Notwithstanding any other provision of this division, any landowner who claims a vested right to develop his property at a density greater than permitted under this division may submit an application for a determination of vested rights to the Department of Planning and Zoning during the effective period of this division.
- (b) Any person who claims a vested right shall file an application for a determination of vested rights with the Department of Planning and Zoning, and shall attach a sworn affidavit

setting forth the facts upon which the applicant bases his claim for vested rights. In addition to any other submission required by the Department of Planning and Zoning, the applicant shall include copies of any contracts, letters and other documents upon which a claim of vested rights is based. The mere existence of zoning prior to the effective date of this division shall not vest rights. Grandfathered rights which preceded this division shall be extinguished.

(c) The Department of Planning and Zoning shall review the application and determine whether the applicant has demonstrated:

- (1) An act of development approval by an agency of Miami-Dade County,
- (2) Upon which the developer has in good faith relied to his detriment,
- (3) Such that it would be highly inequitable to deny the landowner the right to complete the previously approved development.

(d) Effect of vested rights determination. A determination that a landowner is entitled to a vested right to develop at a density greater than permitted under this division does not except the development from compliance with the standards set forth in Section 33B-26 of this division.

G. NEIGHBORHOOD SERVICES:

DERM	Objects
Public Works	No objection
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment

H. ANALYSIS:

This application was deferred from the October 17, 2005 meeting at the applicant's request due to the absence of their representative and from the June 7, 2005 meeting with leave to amend at the applicant's request. At the time of this writing, no amendments to this application have been made. The subject property is located on the north side of theoretical S.W. 125 Street between SW 199 Avenue and theoretical SW 200 Avenue, Miami Dade County, Florida. This application seeks to permit a site with less area than required by the Zoning Code in Management Area 1, known as the East Everglades. Said property is located approximately 3.5 miles west of the Urban Development Boundary (UDB) line and west of Containment Levee-31N.

The Department of Environmental Resources Management (DERM) has determined that this application does not meet the minimum requirements for residential use within Management Area 1 of the Area of Critical Environmental Concern. Additionally, DERM advises that the property is located in an area that receives no flood protection and therefore, it does not meet the Level of Service (LOS) standards for flood protection specified in the CDMP and may not be approved for concurrency for flood protection. Therefore, DERM **objects** to this application. The **Public Works Department** has no

objections to this application and states that it will not generate any additional daily peak hour vehicle trips.

If approved, this application would allow the applicant the maintenance and continued use of an existing single family residence on this substandard-sized GU lot in the East Everglades. The parcel was issued a building permit in 1989 for a barn building and a declaration of use agreement was recorded on February 27, 1989 in official record book #14012 at page 578-580. In the agreement made between the applicant and Miami-Dade County, the applicant committed to use the barn for storage for agricultural purposes only and further agreed that no residential use would be made of the barn or the property. However, the barn was illegally converted into a single family residence in direct violation of the applicant's commitment to the County. Additionally, the applicant has not applied for or provided for entitlements to the conditional uses permitted under Section 33B-25. Said section permits single-family detached dwelling units at a density no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event and that all the conditions of Section 33B-28 are met. This area did not have an established residential character as of January 14, 1981 as evidenced by the 1989 permit for a barn for agricultural purposes only and the 1989 declaration of use ensuring same. Additionally, staff has not received any documentation that the property affords sufficient protection from a one-in-ten-year flood event. Staff is of the opinion that this application does not meet the criteria under Sections 33B-25 and 33B-28 since the proposed use is inconsistent with the purposes, goals, objectives and standards of the East Everglades Management Plan and may irreversibly affect the ecological integrity of the East Everglades due to the adverse environmental impacts resulting from changes in water quality caused when drinking water wells become contaminated with domestic sewage.

Further, the applicant has not applied for or provided for entitlements to vested rights as provided under Section 33B-29. The applicant would have to provide to the Department of Planning and Zoning documentation setting forth the facts upon which he bases his claim for vested rights. The Department of Planning and Zoning would then review the application and determine whether the applicant has demonstrated an act of development approval by an agency of Miami-Dade County upon which the developer has in good faith relied to his detriment such that it would be highly inequitable to deny the landowner the right to complete the previously approved development. Staff notes that the only development approved by the County on this property, and agreed upon by the applicant, was for a barn structure for agricultural use only.

The Comprehensive Development Master Plan (CDMP) designates this area as Open Land on the Land Use Plan (LUP) map. The CDMP states that any parcel to be used for residential purposes must have a minimum of 40 gross acres in this LUP map designation. The applicant is requesting to permit a residence on a parcel of land with a lot area of 7.78 gross acres in what the CDMP text designates as Management Area 1 of the East Everglades. The plans submitted as part of this application depict the development of the site with an existing single family residence consisting of three bedrooms and two bathrooms. Staff has opposed most residential uses in this area since the 1981 passage of the East Everglades Ordinance and finds no justification to warrant an exception for this

7.78 gross acre parcel. The primary purpose of the East Everglades Ordinance was to minimize population growth in an area which is subject to periodic flooding. The intent of the density restriction under the Ordinance is to prevent the problems that arise from the cumulative adverse environmental impacts of residential usage within an area that receives no flood protection. These problems include the need for a considerable infusion of public resources during flooding events, the health risks which arise when drinking water wells become contaminated with domestic sewage, the demands for publicly-financed flood control which inevitably occurs subsequent to flooding events, and the damage to private property which will occur when individuals make physical improvements in areas with high flood risks and no floodwater removal capacity.

As previously stated, **DERM** recommends that this application be denied in its entirety. As stated in their memorandum, approval of this application would set a precedent for allowing intensified development that would introduce the proliferation of septic tanks on less than forty acres, would result in potential health hazards, and may not be approved for concurrency for flood protection.

This application does not meet the Alternative Site Development Option (ASDO) Standards outlined in Section 33-311(A)(14) since it is zoned GU and designated for **open land uses** on the Land Use Plan (LUP) map of the CDMP, and the proposed area is less than 90% of that required by the regulations. Therefore the application should be denied under the ASDO Standards. If analyzed under the Alternative Non-Use Variance Standards (Section 33-311(A)(4)(c)), the applicant has not proven that enforcement of the provisions of the zoning code will result in unnecessary hardship. Additionally, the applicant is able to use the property for agricultural purposes and was permitted a barn building in accordance with the recorded declaration of restrictions. As such, this application cannot be approved under the Alternative Non-Use Variance Standards and should be denied under same. When analyzed under the Non-Use Variance Standards (Section 33-311(A)(4)(b), this application does not maintain the basic intent and purpose of the land use regulations, is **inconsistent** with the CDMP and **incompatible** with the surrounding area. Approval of this application could be detrimental to the community since it could set a precedent that would lead to future requests to further parcelize this flood-prone area which would result in numerous health and safety issues. In consideration of all of the aforementioned, staff recommends denial without prejudice of this application.

I. **RECOMMENDATION:** Denial without prejudice.

J. **CONDITIONS:** None.

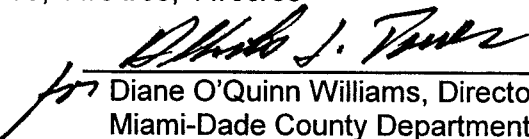
DATE INSPECTED: 04/11/05

DATE TYPED: 04/18/05

DATE REVISED: 04/21/05; 04/29/05; 05/23/05; 06/06/05; 06/16/05; 06/20/05; 06/21/05;
08/30/05; 10/12/05; 11/04/05; 11/09/05

DATE FINALIZED: 11/09/05

DO'QW:AJT:MTF:LVT:JV:JED


for Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: June 23, 2005

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: John W. Renfrow, P.E., Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "John W. Renfrow", with a long, sweeping horizontal line extending to the right.

Subject: C-14 #Z2005000037-Revised
Emilio Garcell
12350 & 12400 SW 199 Ave
Non-Use Variance of Lot Area Requirements for an Existing Single Family Residence
(GU) (7.78 Ac.)
15-55-38

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that the request meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code); therefore, the application may be scheduled for public hearing.

However, the subject site is located in an area that receives no flood protection, and therefore is likely to experience frequent flooding that persists for extended periods of time. It is DERM's staff opinion that the use of septic systems in an area with a high potential for flooding, will likely result in a human health hazard as well as the degradation of surface and ground water quality. In addition, DERM notes that the Zoning Overlay Ordinance outlines that a density of no greater than one (1) unit per five (5) acres can be approved, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten year flood event. This flood control facility does not exist. Accordingly, DERM recommends denial of the application.

Potable Water Supply and Wastewater Disposal:

The closest public water and public sanitary sewers are located approximately 4.4 miles from the site. Therefore, any land use on the property requiring sanitary facilities would have to be served by an on-site drinking water supply well and a septic tank.

The use of an on-site drinking water supply well may only be approved if groundwater quality in the area is such that drinking water standards can be met by the proposed water supply facility. The applicant is advised that a minimum separation distance of 100 feet is required from septic tanks and drainfields and from all surface waters. Furthermore, any on-site drinking water supply well may only be approved subject to compliance with the minimum drinking water standards for a potable water supply well, including DERM review and approval of the on-site well and water treatment system. The applicant shall also obtain an annual operating permit from the Water Supply Section of DERM for the said system.

Section 24-43.1 of the Code provides that the use of a septic tank as a means for the disposal of domestic liquid waste in conjunction with an on-site drinking water supply well, may only be approved if the property contains at least 20,328 square feet of unsubmerged land.

Notwithstanding the foregoing, DERM staff believes that the aforesaid Code provisions are intended for property that receives flood protection. As previously stated, the subject site is located in an area that receives no flood protection and consequently, has the potential of remaining flooded for prolonged periods. Staff believes that during these extended periods of flooding, the septic tank effluent may short circuit to the on-site drinking water well via the standing waters, thus becoming a health hazard for this property as well as for the neighboring ones.

DERM staff further believes that approval of the subject application would set a precedent for allowing intensified development that would induce the proliferation of septic tanks on less than forty acres; and furthermore, would be inconsistent with the language and intent of the Zoning Overlay Ordinance. Accordingly, DERM recommends that the application be denied.

Stormwater Management:

The subject property is located in area that receives no flood protection; therefore, it may not be approved for concurrency for flood protection.

Wetland Permitting Comments:

Although the subject property lies within a jurisdictional wetland basin, it does not contain jurisdictional wetlands.

Tree Preservation:

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. Consequently, DERM will require the preservation of all specimen-sized trees, as defined in the Code, on the site. A Miami-Dade County tree removal permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

The Department has conducted a concurrency review for this application and has determined that the same meets all applicable Levels of Service (LOS) standards as specified in the adopted Comprehensive Master Plan (CDMP) for potable water and supply and wastewater disposal.

However, since the property is located within an area that has no flood protection, the application does not meet the LOS standards for flood protection specified in the CDMP. Therefore, the application cannot be approved for concurrency.

In summary, the application meets the minimum requirements of Chapter 24 of the Code. Therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written consent to that effect as required by the Code. Notwithstanding the foregoing, DERM staff believes that approval of the application may result in an unwarranted source of contamination of surface and groundwater; accordingly, DERM recommends denial of the same.

cc: Lynne Talleda, Zoning Evaluation- P&Z
Ron Connally, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: EMILIO GARCELL

This Department has no objections to this application.

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This meets the traffic concurrency criteria set for an Initial Development Order.

A handwritten signature in black ink, appearing to read "Raul", with a stylized flourish extending to the right.

Raul A Pino, P.L.S.

17-FEB-05

TEAM METRO

ENFORCEMENT HISTORY

EMILIO GARCELL

12400 S.W. 199 AVENUE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

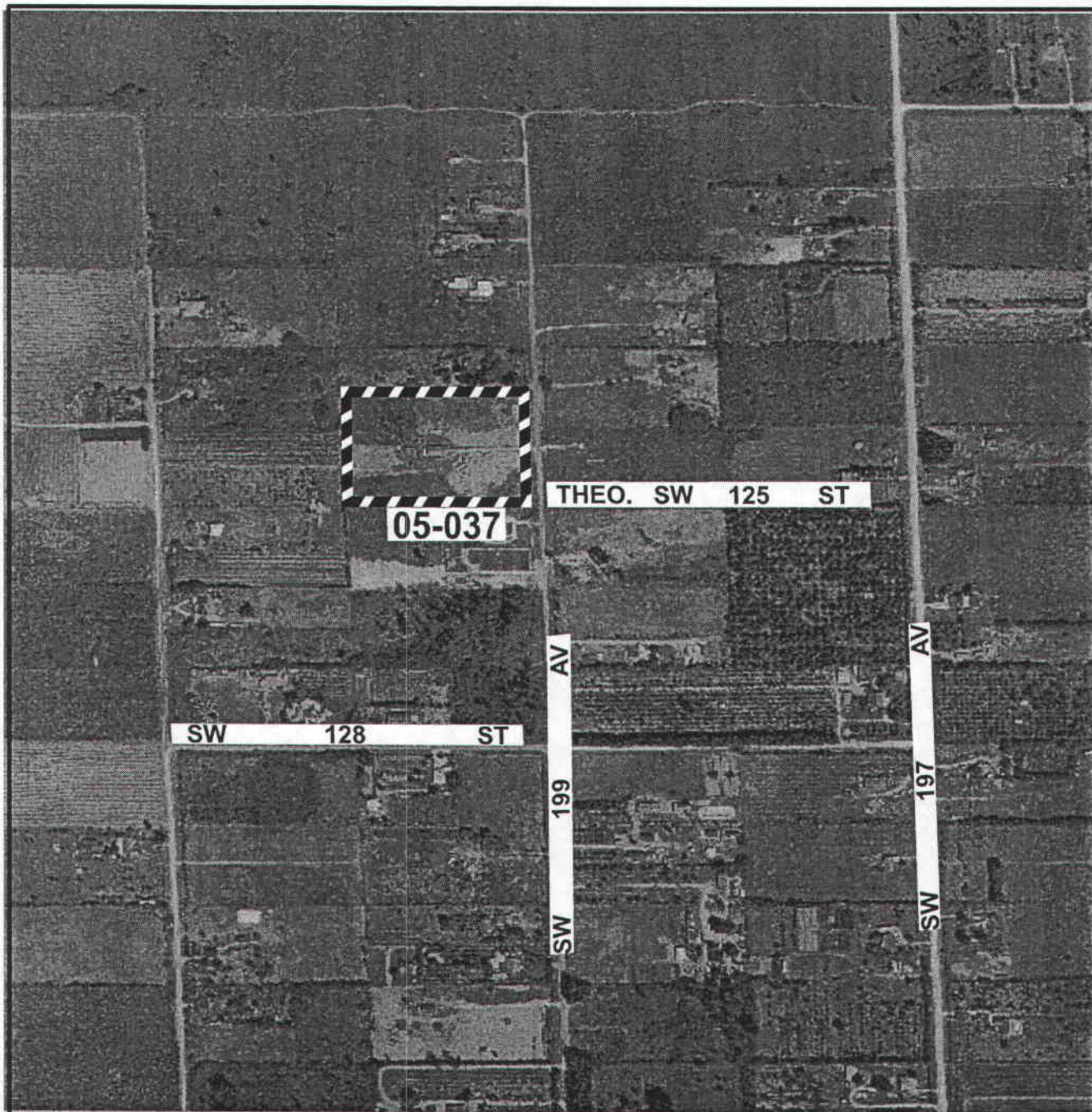
ADDRESS

Z2005000037

HEARING NUMBER

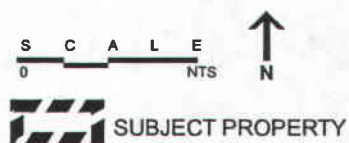
CURRENT ENFORCEMENT HISTORY:

No open Team Metro cases.



MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 55 Range: 38
Process Number: 05-037
Applicant: EMILIO GARCELL
Zoning Board: C14
District Number: 09
Drafter ID: KEELING
Scale: NTS



B. EMILIO GARCELL
(Applicant)

05-7-CZ14-7 (05-37)
Area 14/District 9
Hearing Date: 10/17/05

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☐ /lease ☐ the property predicated on the approval of the zoning request? Yes ☐ No ☒

Disclosure of interest form attached? Yes ☐ No ☒

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
				NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 14
MOTION SLIP**

7

APPLICANT'S NAME: EMILIO GARCELL

REPRESENTATIVE: **APPLICANT**

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
05-7-CZ14-7 (05-37)	JULY 7, 2005	CZAB14		05

REQ: single-family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

REC: DWOP

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S): _____
<input checked="" type="checkbox"/> DEFER:	<input type="checkbox"/> INDEFINITELY	<input checked="" type="checkbox"/> TO: <u>OCT. 17, 2005</u> <input type="checkbox"/> W/LEAVE TO AMEND
<input type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input type="checkbox"/> WITHOUT PREJUDICE
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS	
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT <input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS	
<input type="checkbox"/>		

TITLE	M/S	NAME	YES	NO	ABSENT
MR.		Samuel L. BALLINGER			X
MR.	M	Wilbur B. BELL	X		
MS.	S	Dawn Lee BLAKESLEE	X		
MS.		Rose L. EVANS-COLEMAN	X		
MR.		Don JONES			X
VICE-CHAIRMAN		Curtis LAWRENCE (C.A.)			X
MADAME CHAIRPERSON		DR. Pat WADE	X		
VOTE:			4	0	

EXHIBITS: ☐ YES ☒ NO

COUNTY ATTORNEY: THOMAS ROBERTSON

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL NO. 14**

APPLICANT: Emilio Garcell

PH: Z05-037 (05-7-CZ14-7)

SECTION: 15-55-38

DATE: October 17, 2005

COMMISSION DISTRICT: 9

ITEM NO.: B

A. INTRODUCTION

o **REQUEST:**

Applicant is requesting to permit a single family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

Upon a demonstration that the applicable standards have been satisfied, approval of the request may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A plan is on file and may be examined in the Zoning Department entitled "Proposed Legalization Residence for: Mr. & Mrs. Emilio & Caridad Garcell," as prepared by Miami Engineering Co. and dated 2-8-05. The plan may be modified at public hearing.

o **SUMMARY OF REQUEST:**

This application seeks to permit a buildable site for a single-family home with less area than required by the Miami-Dade Zoning Code.

o **LOCATION:**

12400 S.W. 199 Avenue, Miami-Dade County, Florida.

o **SIZE:** 7.78 gross acres.

o **IMPACT:**

The approval of this application will allow the applicant the maintenance and continued use of an existing single-family residence on this site. This application would detrimentally impact the community.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2005 and 2015 Land Use Plan designates the subject property for **Open Land**.

2. Open Land Subarea 4 (East Everglades Residential Area). This subarea is bounded on the north, west and southwest by Environmental Protection Subarea B, on the east by Levee 31 N, and on the south by SW 168 Street. Uses which may be considered for approval in this area are seasonal agriculture and rural residences at a density of 1 dwelling unit per 40 acres, or 1 dwelling unit per 20 acres if ancillary to an established agricultural operation, or 1 dwelling unit per 5 acres, after such time as drainage facilities become available to protect this area from a one-in-ten year flood event in keeping with the adopted East Everglades zoning overlay regulation (Section 33B, Code of Miami-Dade County) and compatible and necessary utility facilities. Uses that could compromise groundwater quality shall not occur in this area. (Land Use Element, page I-52).

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

GU; single family residence

Open Land Subarea 4

Surrounding Properties:

NORTH: GU; vacant

Open Land Subarea 4

SOUTH: GU; single family residence

Open Land Subarea 4

EAST: GU; vacant

Open Land Subarea 4

WEST: GU; vacant

Open Land Subarea 4

The subject parcel is located between SW 199 Avenue and SW 202 Avenue on the north side of theoretical SW 125 Street. The area where the subject property lies is characterized by vacant parcels. A single family lies to the south of the subject property.

E. SITE AND BUILDINGS:

Site Plan Review:

Scale/Utilization of Site:

(plan submitted)

Unacceptable

Location of Buildings:

Unacceptable

Compatibility:

Unacceptable

Landscape Treatment:

Unacceptable

Open Space:

Unacceptable

Buffering:

Unacceptable

Access:

Acceptable

Parking Layout/Circulation:

N/A

Visibility/Visual Screening:

N/A

Energy Considerations:

N/A

Roof Installations:

N/A

Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 33-311(A)(14) Alternative Site Development Option for Single Family and Duplex Dwellings

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts.

(d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:

- (1) the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:
 - A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and
 - B. the proposed alternative development will not result in the further subdivision of land; and
 - C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (2) the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:

- A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and
- B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and
- C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and
- D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
- E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
- F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

(3) the proposed lot area, frontage or depth is such that:

- A. the proposed alternative development will not result in the creation of more than three (3) lots; and
- B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and
- C. no lot area shall be less than the smaller of:
 - i. ninety percent (90%) of the lot area required by the underlying district regulations; or
 - ii. the average area of the developed lots in the immediate vicinity within the same zoning district; and
- D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
- E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
- F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

- (4) if the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:
- A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and
 - B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area.
 - C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with the agricultural designation; and
 - E. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (g) Notwithstanding the foregoing, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- 1. will result in a significant diminution of the value of property in the immediate vicinity; or
 - 2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
 - 3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or
 - 4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations by Section 33B-45 of this code.

Section 33-311(A)(4)(b) Non-Use Variance Standard. Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c) Alternative Non-Use Variance Standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

Sec. 33B-25. Authorized uses.

(A) Management Area 1:

(1) Permitted uses:

- (a) Agricultural use, and
- (b) Agricultural support housing at a density of no greater than one (1) unit per forty (4) acres, or
- (c) Single-family detached dwelling units at a density of no greater than one (1) unit per forty (40) acres.

(2) Conditional uses:

- (a) Single-family detached dwelling units at a density of no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event. This area is defined as all of Sections 14, 21, 22, 23, 27, 28; the south one-half of Section 11 and the south one-half of the north one-half of Section 11; the east one-half of Section 15; the east one-half of Section 16; all land in Section 26 which lies northerly and westerly of Levee L-31-N; the east one-half of the east one-half of Section 29; all within Township 55 South and Range 38 East.
- (b) Residential dwelling units at a density of no greater than one (1) dwelling unit per twenty (20) acres, provided that:
 - 1. The dwelling unit is ancillary to an established agricultural operation involving less than forty (40) acres, and
 - 2. Occupancy of the dwelling is limited to the owner, operator or employees of the established agricultural operation, and
 - 3. The parcel was not in common ownership with any adjacent parcel of land on or after January 14, 1981.

Sec. 33B-27. Conditional uses--Application process.

(a) *Application contents.* An application for a permit for development approval for a conditional use authorized by Section 33B-25 of this division shall be submitted to the Department of Environmental Resources Management in accordance with the provisions of this section and shall be accompanied by a nonrefundable fee in an amount to be established from time to time by the Board of County Commissioners of Miami-Dade County. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Department of Environmental Resources Management and the Department of Planning and Zoning and shall contain at least the following information:

- (1) Name and address of applicant;
- (2) Legal description and lot number of the property which is the subject of the application;
- (3) Statement of ownership;
- (4) Size of the subject property;
- (5) A written statement describing in general terms the proposed development;
- (6) A written statement setting forth how the proposed development meets each standard specified in Section 33B-28 for the conditional use;
- (7) A site plan at a scale of not more than fifty (50) feet to the inch, on one (1) or more sheets, illustrating the proposed development and use, and including the following:
 - a. Location of the property by lot number, block number, and street address, if any.
 - b. The boundary lines of the property, the dimensions of the property, existing subdivision, and easements, roadways and public rights-of-way on or adjacent to the property.
 - c. The location and dimensions of all structures designed to maintain the natural flow of surface waters.
 - d. The location, height and use of all proposed and existing buildings and structures and filled areas.
 - e. The approximate location and dimensions of all proposed lots.
 - f. All existing and proposed surface and subsurface drainage facilities, waste treatment facilities, septic tank and potable well location.
 - g. Scale of drawing and north arrow.
 - h. Such other information or documentation as may be necessary or appropriate to a full and proper consideration and disposition of the development application.

(8) An aerial photograph(s) taken within one (1) year of the application at the scale of three hundred (300) feet to the inch of the subject parcel and all adjacent property within two thousand six hundred forty (2,640) feet or, if an aerial photo is not available, a vicinity sketch at the scale of three hundred (300) feet equals one (1) inch showing all existing development within two thousand six hundred forty (2,640) feet of any boundary of the subject parcel.

(9) An environmental description of the parcel proposed for development including:

- a. A topographical survey signed by a registered engineer or licensed land surveyor,
- b. A general description of the existing vegetation as well as all other natural features including sloughs, tree islands, geological formation, and soil type.

(b) *Review of application.*

(1) Within fifteen (15) days after an application for conditional use approval is submitted, the Director of Environmental Resources Management shall determine whether the application is complete. If the application is determined to be incomplete, a written statement specifying the deficiencies shall be sent to the applicant and no further action shall be taken on the application until the deficiencies are remedied.

(2) Within sixty (60) days after receipt of a complete application, the Directors of the Planning and Zoning and the Environmental Resources Management Departments shall review the application for conditional use approval and shall decide whether the proposed conditional use permit should be issued or denied and the grounds for such decision. Such review and decision shall be based on the comments and recommendations of all other relevant County departments and a determination of whether the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. The Department of Environmental Resources Management shall give notice of projects accepted for conditional use approval by publication in a newspaper of general circulation in Miami-Dade County and posting a notice on property adjacent to the proposed project. If an appeal is filed with the Department of Environmental Resources Management within ten (10) days of said publication, a public hearing before the Board of County Commissioners shall be held for the project. If no appeal is requested, a conditional use permit shall be issued by the Department of Environmental Resources Management subject to the provisions herein.

(c) *Appeal to the Board of County Commissioners.*

(1) An applicant for conditional use approval under the provisions of this section may appeal the decision of the Directors of the Planning and Zoning and the Environmental Resources Management Departments to the Board of County Commissioners of Metropolitan Miami-Dade County.

(2) Notice of appeal shall be filed with the Clerk of the County Commission within fifteen (15) days.

(3) Upon receipt of a notice of appeal, the Clerk of the Commission shall place the appeal on the agenda of the next regular meeting of the Board of County Commissioners.

(d) *Action by the Board of County Commissioners.* The Board of County Commissioners of Miami-Dade County shall review the application for which an appeal has been properly filed, the decision of the Directors of the Departments of Planning and Zoning and Environmental Resources Management and any additional information which may be submitted. Following a full evidentiary hearing, the Commissioners may affirm, reverse or modify the decision of the Directors of the Departments of Environmental Resources Management and Planning and Zoning. Such affirmance, reversal or modification shall be based on the extent to which the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. An aggrieved party may appeal the decision of the Board to the Circuit Court with the applicable Florida Rules of Appellate Procedure.

Sec. 33B-28. Same--General standards.

A conditional use permit may be granted only if the applicant demonstrates that:

- (a) The conditional use is consistent with the purposes, goals, objectives and standards of the East Everglades Management Plan;
- (b) The design of the proposed development minimizes adverse effects, including visual impacts of the proposed use on adjacent properties;
- (c) The proposed use will not have singular or cumulative adverse effect on the value of adjacent property;
- (d) The proposed use, singly or cumulatively, will not unduly burden essential public facilities and services including roadways, parking spaces, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools;
- (e) The proposed use, singly or cumulatively, will not have any of the following irreversible effects on the ecological integrity of the East Everglades:
 - (1) Harmful obstruction or undesirable alteration of the natural flow of water within the area of work.
 - (2) Harmful or increased erosion, or adverse environmental impact resulting from changes in water quality or quantity.
 - (3) Adverse impact upon wetland flora and fauna within adjacent parcels.
 - (4) Adverse impact upon wetland flora and fauna within those portions of the subject property not proposed for development under the application.
 - (5) Material injury to adjoining land.

Sec. 33B-29. Vested rights.

- (a) Notwithstanding any other provision of this division, any landowner who claims a vested right to develop his property at a density greater than permitted under this division may submit an application for a determination of vested rights to the Department of Planning and Zoning during the effective period of this division.
- (b) Any person who claims a vested right shall file an application for a determination of vested rights with the Department of Planning and Zoning, and shall attach a sworn affidavit

setting forth the facts upon which the applicant bases his claim for vested rights. In addition to any other submission required by the Department of Planning and Zoning, the applicant shall include copies of any contracts, letters and other documents upon which a claim of vested rights is based. The mere existence of zoning prior to the effective date of this division shall not vest rights. Grandfathered rights which preceded this division shall be extinguished.

(c) The Department of Planning and Zoning shall review the application and determine whether the applicant has demonstrated:

- (1) An act of development approval by an agency of Miami-Dade County,
- (2) Upon which the developer has in good faith relied to his detriment,
- (3) Such that it would be highly inequitable to deny the landowner the right to complete the previously approved development.

(d) Effect of vested rights determination. A determination that a landowner is entitled to a vested right to develop at a density greater than permitted under this division does not except the development from compliance with the standards set forth in Section 33B-26 of this division.

G. NEIGHBORHOOD SERVICES:

DERM	Objects
Public Works	No objection
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment

H. ANALYSIS:

This application was deferred from the June 7, 2005 meeting with leave to amend at the applicant's request. At the time of this writing, no amendments to this application have been made. The subject property is located on the north side of theoretical S.W. 125 Street between SW 199 Avenue and theoretical SW 200 Avenue, Miami Dade County, Florida. This application seeks to permit a site with less area than required by the Zoning Code in Management Area 1, known as the East Everglades. Said property is located approximately 3.5 miles west of the Urban Development Boundary (UDB) line and west of Containment Levee-31N.

The Department of Environmental Resources Management (DERM) has determined that this application does not meet the minimum requirements for residential use within Management Area 1 of the Area of Critical Environmental Concern. Additionally, DERM advises that the property is located in an area that receives no flood protection and therefore, it does not meet the Level of Service (LOS) standards for flood protection specified in the CDMP and may not be approved for concurrency for flood protection. Therefore, DERM **objects** to this application. The **Public Works Department** has no

objections to this application and states that it will not generate any additional daily peak hour vehicle trips.

If approved, this application would allow the applicant the maintenance and continued use of an existing single family residence on this substandard-sized GU lot in the East Everglades. The parcel was issued a building permit in 1989 for a barn building and a declaration of use agreement was recorded on February 27, 1989 in official record book #14012 at page 578-580. In the agreement made between the applicant and Miami-Dade County, the applicant committed to use the barn for storage for agricultural purposes only and further agreed that no residential use would be made of the barn or the property. However, the barn was illegally converted into a single family residence in direct violation of the applicant's commitment to the County. Additionally, the applicant has not applied for or provided for entitlements to the conditional uses permitted under Section 33B-25. Said section permits single-family detached dwelling units at a density no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event and that all the conditions of Section 33B-28 are met. This area did not have an established residential character as of January 14, 1981 as evidenced by the 1989 permit for a barn for agricultural purposes only and the 1989 declaration of use ensuring same. Additionally, staff has not received any documentation that the property affords sufficient protection from a one-in-ten-year flood event. Staff is of the opinion that this application does not meet the criteria under Sections 33B-25 and 33B-28 since the proposed use is inconsistent with the purposes, goals, objectives and standards of the East Everglades Management Plan and may irreversibly affect the ecological integrity of the East Everglades due to the adverse environmental impacts resulting from changes in water quality caused when drinking water wells become contaminated with domestic sewage.

Further, the applicant has not applied for or provided for entitlements to vested rights as provided under Section 33B-29. The applicant would have to provide to the Department of Planning and Zoning documentation setting forth the facts upon which he bases his claim for vested rights. The Department of Planning and Zoning would then review the application and determine whether the applicant has demonstrated an act of development approval by an agency of Miami-Dade County upon which the developer has in good faith relied to his detriment such that it would be highly inequitable to deny the landowner the right to complete the previously approved development. Staff notes that the only development approved by the County on this property, and agreed upon by the applicant, was for a barn structure for agricultural use only.

The Comprehensive Development Master Plan (CDMP) designates this area as Open Land on the Land Use Plan (LUP) map. The CDMP states that any parcel to be used for residential purposes must have a minimum of 40 gross acres in this LUP map designation. The applicant is requesting to permit a residence on a parcel of land with a lot area of 7.78 gross acres in what the CDMP text designates as Management Area 1 of the East Everglades. The plans submitted as part of this application depict the development of the site with an existing single family residence consisting of three bedrooms and two bathrooms. Staff has opposed most residential uses in this area since the 1981 passage of the East Everglades Ordinance and finds no justification to warrant an exception for this

7.78 gross acre parcel. The primary purpose of the East Everglades Ordinance was to minimize population growth in an area which is subject to periodic flooding. The intent of the density restriction under the Ordinance is to prevent the problems that arise from the cumulative adverse environmental impacts of residential usage within an area that receives no flood protection. These problems include the need for a considerable infusion of public resources during flooding events, the health risks which arise when drinking water wells become contaminated with domestic sewage, the demands for publicly-financed flood control which inevitably occurs subsequent to flooding events, and the damage to private property which will occur when individuals make physical improvements in areas with high flood risks and no floodwater removal capacity.

As previously stated, **DERM** recommends that this application be denied in its entirety. As stated in their memorandum, approval of this application would set a precedent for allowing intensified development that would introduce the proliferation of septic tanks on less than forty acres, would result in potential health hazards, and may not be approved for concurrency for flood protection.

This application does not meet the Alternative Site Development Option (ASDO) Standards outlined in Section 33-311(A)(14) since it is zoned GU and designated for **open land uses** on the Land Use Plan (LUP) map of the CDMP, and the proposed area is less than 90% of that required by the regulations. Therefore the application should be denied under the ASDO Standards. If analyzed under the Alternative Non-Use Variance Standards (Section 33-311(A)(4)(c)), the applicant has not proven that enforcement of the provisions of the zoning code will result in unnecessary hardship. Additionally, the applicant is able to use the property for agricultural purposes and was permitted a barn building in accordance with the recorded declaration of restrictions. As such, this application cannot be approved under the Alternative Non-Use Variance Standards and should be denied under same. When analyzed under the Non-Use Variance Standards (Section 33-311(A)(4)(b)), this application does not maintain the basic intent and purpose of the land use regulations, is **inconsistent** with the CDMP and **incompatible** with the surrounding area. Approval of this application could be detrimental to the community since it could set a precedent that would lead to future requests to further parcelize this flood-prone area which would result in numerous health and safety issues. In consideration of all of the aforementioned, staff recommends denial without prejudice of this application.

I. **RECOMMENDATION:** Denial without prejudice.

J. **CONDITIONS:** None.

DATE INSPECTED: 04/11/05
DATE TYPED: 04/18/05
DATE REVISED: 04/21/05; 04/29/05; 05/23/05; 06/06/05; 06/16/05; 06/20/05; 06/21/05;
08/30/05; 10/12/05
DATE FINALIZED: 10/12/05
DO'QW:AJT:MTF:LVT:JV:JED



Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: June 23, 2005

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: John W. Renfrow, P.E., Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "John W. Renfrow", with a long horizontal stroke extending to the right.

Subject: C-14 #Z2005000037-Revised
Emilio Garcell
12350 & 12400 SW 199 Ave
Non-Use Variance of Lot Area Requirements for an Existing Single Family Residence
(GU) (7.78 Ac.)
15-55-38

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that the request meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code); therefore, the application may be scheduled for public hearing.

However, the subject site is located in an area that receives no flood protection, and therefore is likely to experience frequent flooding that persists for extended periods of time. It is DERM's staff opinion that the use of septic systems in an area with a high potential for flooding, will likely result in a human health hazard as well as the degradation of surface and ground water quality. In addition, DERM notes that the Zoning Overlay Ordinance outlines that a density of no greater than one (1) unit per five (5) acres can be approved, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten year flood event. This flood control facility does not exist. Accordingly, DERM recommends denial of the application.

Potable Water Supply and Wastewater Disposal:

The closest public water and public sanitary sewers are located approximately 4.4 miles from the site. Therefore, any land use on the property requiring sanitary facilities would have to be served by an on-site drinking water supply well and a septic tank.

The use of an on-site drinking water supply well may only be approved if groundwater quality in the area is such that drinking water standards can be met by the proposed water supply facility. The applicant is advised that a minimum separation distance of 100 feet is required from septic tanks and drainfields and from all surface waters. Furthermore, any on-site drinking water supply well may only be approved subject to compliance with the minimum drinking water standards for a potable water supply well, including DERM review and approval of the on-site well and water treatment system. The applicant shall also obtain an annual operating permit from the Water Supply Section of DERM for the said system.

Section 24-43.1 of the Code provides that the use of a septic tank as a means for the disposal of domestic liquid waste in conjunction with an on-site drinking water supply well, may only be approved if the property contains at least 20,328 square feet of unsubmerged land.

Notwithstanding the foregoing, DERM staff believes that the aforesaid Code provisions are intended for property that receives flood protection. As previously stated, the subject site is located in an area that receives no flood protection and consequently, has the potential of remaining flooded for prolonged periods. Staff believes that during these extended periods of flooding, the septic tank effluent may short circuit to the on-site drinking water well via the standing waters, thus becoming a health hazard for this property as well as for the neighboring ones.

DERM staff further believes that approval of the subject application would set a precedent for allowing intensified development that would induce the proliferation of septic tanks on less than forty acres; and furthermore, would be inconsistent with the language and intent of the Zoning Overlay Ordinance. Accordingly, DERM recommends that the application be denied.

Stormwater Management:

The subject property is located in area that receives no flood protection; therefore, it may not be approved for concurrency for flood protection.

Wetland Permitting Comments:

Although the subject property lies within a jurisdictional wetland basin, it does not contain jurisdictional wetlands.

Tree Preservation:

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. Consequently, DERM will require the preservation of all specimen-sized trees, as defined in the Code, on the site. A Miami-Dade County tree removal permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

The Department has conducted a concurrency review for this application and has determined that the same meets all applicable Levels of Service (LOS) standards as specified in the adopted Comprehensive Master Plan (CDMP) for potable water and supply and wastewater disposal.

However, since the property is located within an area that has no flood protection, the application does not meet the LOS standards for flood protection specified in the CDMP. Therefore, the application cannot be approved for concurrency.

In summary, the application meets the minimum requirements of Chapter 24 of the Code. Therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written consent to that effect as required by the Code. Notwithstanding the foregoing, DERM staff believes that approval of the application may result in an unwarranted source of contamination of surface and groundwater; accordingly, DERM recommends denial of the same.

cc: Lynne Talleda, Zoning Evaluation- P&Z
Ron Connally, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

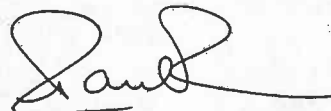
PH# Z2005000037
CZAB - C14

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: EMILIO GARCELL

This Department has no objections to this application.

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This meets the traffic concurrency criteria set for an Initial Development Order.



Raul A Pino, P.L.S.

17-FEB-05

Memorandum



Date: 28-MAR-05

To: Diane O'Quinn Williams, Director
Department of Planning and Zoning

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue

Subject: Z2005000037

Fire Prevention Unit:

Development for the above Z2005000037
located at 12400 S.W. 199 AVENUE, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid _____ is proposed as the following:

<u>single</u>	dwelling units	<u>industrial</u>	square feet
<u>multifamily</u>	dwelling units	<u>institutional</u>	square feet
<u>commercial</u>	square feet	<u>nursing home</u>	square feet

Based on this development information, estimated service impact is
_____ alarms annually.

Planned service(s) to mitigate the impact is:

Station/Unit

Estimated date of opening

DATE: 05/10/05

TEAM METRO

ENFORCEMENT HISTORY

EMILIO GARCELL

12400 S.W. 199 AVENUE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

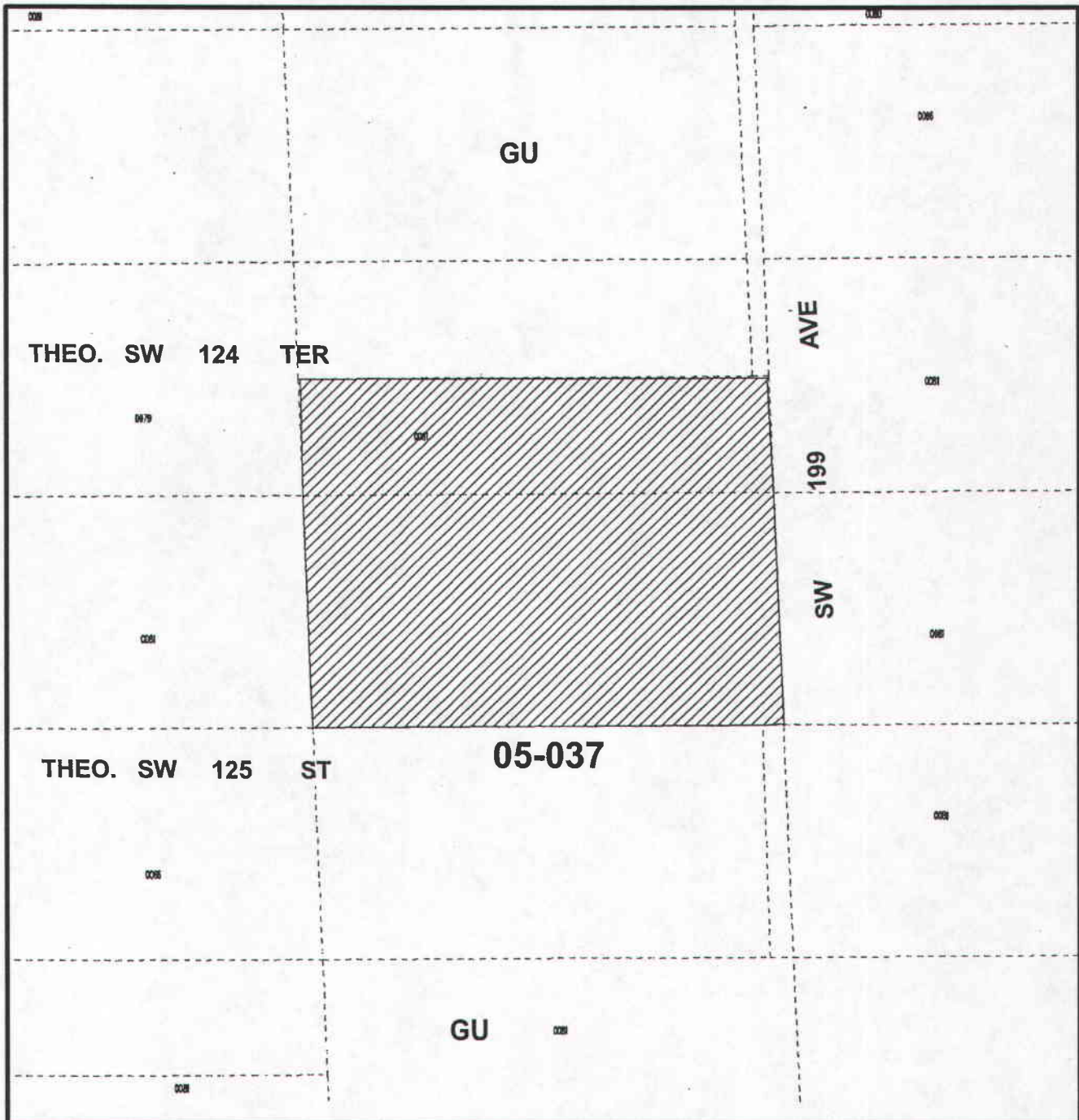
ADDRESS

Z2005000037

HEARING NUMBER

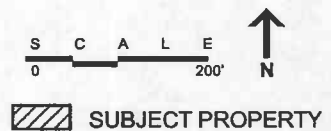
CURRENT ENFORCEMENT HISTORY:

No open Team Metro cases.



**MIAMI-DADE COUNTY
HEARING MAP**

**Section: 15 Township: 55 Range: 38
Process Number: 05-037
Applicant: EMILIO GARCELL
Zoning Board: C14
District Number: 9
Drafter ID: KEELING
Scale: 1:200'**



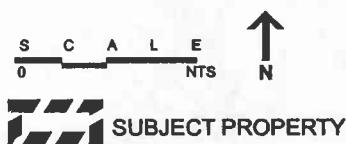
 **SUBJECT PROPERTY**





**MIAMI-DADE COUNTY
AERIAL**

**Section: 15 Township: 55 Range: 38
Process Number: 05-037
Applicant: EMILIO GARCELL
Zoning Board: C14
District Number: 09
Drafter ID: KEELING
Scale: NTS**



7. EMILIO GARCELL
(Applicant)

05-7-CZ14-7 (05-37)
Area 14/District 9
Hearing Date: 7/7/05

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☐ / lease ☐ the property predicated on the approval of the zoning request? Yes ☐ No ☒

Disclosure of interest form attached? Yes ☐ No ☒

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
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NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL NO. 14**

APPLICANT: Emilio Garcell

PH: Z05-037 (05-7-CZ14-7)

SECTION: 15-55-38

DATE: July 7, 2005

COMMISSION DISTRICT: 9

ITEM NO.: 7

A. INTRODUCTION

o **REQUEST:**

Applicant is requesting to permit a single family residence on a lot with an area of 7.78 gross acres (40 gross acres required).

Upon a demonstration that the applicable standards have been satisfied, approval of the request may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A plan is on file and may be examined in the Zoning Department entitled "Proposed Legalization Residence for: Mr. & Mrs. Emilio & Caridad Garcell," as prepared by Miami Engineering Co. and dated 2-8-05. The plan may be modified at public hearing.

o **SUMMARY OF REQUEST:**

This application seeks to permit a buildable site with less area than required by the Miami-Dade Zoning Code.

o **LOCATION:**

12400 S.W. 199 Avenue, Miami-Dade County, Florida.

o **SIZE:** 7.78 gross acres.

o **IMPACT:**

The approval of this application will allow the applicant the maintenance and continued use of an existing single-family residence on this site. This application would detrimentally impact the community.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2005 and 2015 Land Use Plan designates the subject property for **Open Land**.

2. Open Land Subarea 4 (East Everglades Residential Area). This subarea is bounded on the north, west and southwest by Environmental Protection Subarea B, on the east by Levee 31 N, and on the south by SW 168 Street. Uses which may be considered for approval in this area are seasonal agriculture and rural residences at a density of 1 dwelling unit per 40 acres, or 1 dwelling unit per 20 acres if ancillary to an established agricultural operation, or 1 dwelling unit per 5 acres, after such time as drainage facilities become available to protect this area from a one-in-ten year flood event in keeping with the adopted East Everglades zoning overlay regulation (Section 33B, Code of Miami-Dade County) and compatible and necessary utility facilities. Uses that could compromise groundwater quality shall not occur in this area. (Land Use Element, page I-52).

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

GU; single family residence

Open Land Subarea 4

Surrounding Properties:

NORTH: GU; vacant

Open Land Subarea 4

SOUTH: GU; single family residence

Open Land Subarea 4

EAST: GU; vacant

Open Land Subarea 4

WEST: GU; vacant

Open Land Subarea 4

The subject parcel is located between SW 199 Avenue and SW 202 Avenue on the north side of theoretical SW 125 Street. The area where the subject property lies is characterized by vacant parcels. A single family lies to the south of the subject property.

E. SITE AND BUILDINGS:

Site Plan Review:

Scale/Utilization of Site:

(plan submitted)

Unacceptable

Location of Buildings:

Unacceptable

Compatibility:

Unacceptable

Landscape Treatment:

Unacceptable

Open Space:

Unacceptable

Buffering:

Unacceptable

Access:

Acceptable

Parking Layout/Circulation:

N/A

Visibility/Visual Screening:

N/A

Energy Considerations:

N/A

Roof Installations:

N/A

Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 33-311(A)(14) Alternative Site Development Option for Single Family and Duplex Dwellings

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts.

(d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:

- (1) the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:
 - A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and
 - B. the proposed alternative development will not result in the further subdivision of land; and
 - C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (2) the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:

- A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and
 - B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and
 - C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (3) the proposed lot area, frontage or depth is such that:
- A. the proposed alternative development will not result in the creation of more than three (3) lots; and
 - B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - C. no lot area shall be less than the smaller of:
 - i. ninety percent (90%) of the lot area required by the underlying district regulations; or
 - ii. the average area of the developed lots in the immediate vicinity within the same zoning district; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

- (4) if the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:
- A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and
 - B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area.
 - C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with the agricultural designation; and
 - E. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (g) Notwithstanding the foregoing, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- 1. will result in a significant diminution of the value of property in the immediate vicinity; or
 - 2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
 - 3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or
 - 4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations by Section 33B-45 of this code.

Section 33-311(A)(4)(b) Non-Use Variance Standard. Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c) Alternative Non-Use Variance Standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

Sec. 33B-25. Authorized uses.

(A) Management Area 1:

(1) Permitted uses:

- (a) Agricultural use, and
- (b) Agricultural support housing at a density of no greater than one (1) unit per forty (4) acres, or
- (c) Single-family detached dwelling units at a density of no greater than one (1) unit per forty (40) acres.

(2) Conditional uses:

- (a) Single-family detached dwelling units at a density of no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event. This area is defined as all of Sections 14, 21, 22, 23, 27, 28; the south one-half of Section 11 and the south one-half of the north one-half of Section 11; the east one-half of Section 15; the east one-half of Section 16; all land in Section 26 which lies northerly and westerly of Levee L-31-N; the east one-half of the east one-half of Section 29; all within Township 55 South and Range 38 East.
- (b) Residential dwelling units at a density of no greater than one (1) dwelling unit per twenty (20) acres, provided that:
 - 1. The dwelling unit is ancillary to an established agricultural operation involving less than forty (40) acres, and
 - 2. Occupancy of the dwelling is limited to the owner, operator or employees of the established agricultural operation, and
 - 3. The parcel was not in common ownership with any adjacent parcel of land on or after January 14, 1981.

Sec. 33B-27. Conditional uses--Application process.

(a) *Application contents.* An application for a permit for development approval for a conditional use authorized by Section 33B-25 of this division shall be submitted to the Department of Environmental Resources Management in accordance with the provisions of this section and shall be accompanied by a nonrefundable fee in an amount to be established from time to time by the Board of County Commissioners of Miami-Dade County. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Department of Environmental Resources Management and the Department of Planning and Zoning and shall contain at least the following information:

- (1) Name and address of applicant;
- (2) Legal description and lot number of the property which is the subject of the application;
- (3) Statement of ownership;
- (4) Size of the subject property;
- (5) A written statement describing in general terms the proposed development;
- (6) A written statement setting forth how the proposed development meets each standard specified in Section 33B-28 for the conditional use;
- (7) A site plan at a scale of not more than fifty (50) feet to the inch, on one (1) or more sheets, illustrating the proposed development and use, and including the following:
 - a. Location of the property by lot number, block number, and street address, if any.
 - b. The boundary lines of the property, the dimensions of the property, existing subdivision, and easements, roadways and public rights-of-way on or adjacent to the property.
 - c. The location and dimensions of all structures designed to maintain the natural flow of surface waters.
 - d. The location, height and use of all proposed and existing buildings and structures and filled areas.
 - e. The approximate location and dimensions of all proposed lots.
 - f. All existing and proposed surface and subsurface drainage facilities, waste treatment facilities, septic tank and potable well location.
 - g. Scale of drawing and north arrow.
 - h. Such other information or documentation as may be necessary or appropriate to a full and proper consideration and disposition of the development application.

(8) An aerial photograph(s) taken within one (1) year of the application at the scale of three hundred (300) feet to the inch of the subject parcel and all adjacent property within two thousand six hundred forty (2,640) feet or, if an aerial photo is not available, a vicinity sketch at the scale of three hundred (300) feet equals one (1) inch showing all existing development within two thousand six hundred forty (2,640) feet of any boundary of the subject parcel.

(9) An environmental description of the parcel proposed for development including:

- a. A topographical survey signed by a registered engineer or licensed land surveyor,
- b. A general description of the existing vegetation as well as all other natural features including sloughs, tree islands, geological formation, and soil type.

(b) *Review of application.*

(1) Within fifteen (15) days after an application for conditional use approval is submitted, the Director of Environmental Resources Management shall determine whether the application is complete. If the application is determined to be incomplete, a written statement specifying the deficiencies shall be sent to the applicant and no further action shall be taken on the application until the deficiencies are remedied.

(2) Within sixty (60) days after receipt of a complete application, the Directors of the Planning and Zoning and the Environmental Resources Management Departments shall review the application for conditional use approval and shall decide whether the proposed conditional use permit should be issued or denied and the grounds for such decision. Such review and decision shall be based on the comments and recommendations of all other relevant County departments and a determination of whether the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. The Department of Environmental Resources Management shall give notice of projects accepted for conditional use approval by publication in a newspaper of general circulation in Miami-Dade County and posting a notice on property adjacent to the proposed project. If an appeal is filed with the Department of Environmental Resources Management within ten (10) days of said publication, a public hearing before the Board of County Commissioners shall be held for the project. If no appeal is requested, a conditional use permit shall be issued by the Department of Environmental Resources Management subject to the provisions herein.

(c) *Appeal to the Board of County Commissioners.*

(1) An applicant for conditional use approval under the provisions of this section may appeal the decision of the Directors of the Planning and Zoning and the Environmental Resources Management Departments to the Board of County Commissioners of Metropolitan Miami-Dade County.

(2) Notice of appeal shall be filed with the Clerk of the County Commission within fifteen (15) days.

(3) Upon receipt of a notice of appeal, the Clerk of the Commission shall place the appeal on the agenda of the next regular meeting of the Board of County Commissioners.

(d) *Action by the Board of County Commissioners.* The Board of County Commissioners of Miami-Dade County shall review the application for which an appeal has been properly filed, the decision of the Directors of the Departments of Planning and Zoning and Environmental Resources Management and any additional information which may be submitted. Following a full evidentiary hearing, the Commissioners may affirm, reverse or modify the decision of the Directors of the Departments of Environmental Resources Management and Planning and Zoning. Such affirmance, reversal or modification shall be based on the extent to which the applicant has demonstrated compliance with the standards for conditional use approval set forth in Section 33B-28. An aggrieved party may appeal the decision of the Board to the Circuit Court with the applicable Florida Rules of Appellate Procedure.

Sec. 33B-28. Same--General standards.

A conditional use permit may be granted only if the applicant demonstrates that:

- (a) The conditional use is consistent with the purposes, goals, objectives and standards of the East Everglades Management Plan;
- (b) The design of the proposed development minimizes adverse effects, including visual impacts of the proposed use on adjacent properties;
- (c) The proposed use will not have singular or cumulative adverse effect on the value of adjacent property;
- (d) The proposed use, singly or cumulatively, will not unduly burden essential public facilities and services including roadways, parking spaces, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools;
- (e) The proposed use, singly or cumulatively, will not have any of the following irreversible effects on the ecological integrity of the East Everglades:
 - (1) Harmful obstruction or undesirable alteration of the natural flow of water within the area of work.
 - (2) Harmful or increased erosion, or adverse environmental impact resulting from changes in water quality or quantity.
 - (3) Adverse impact upon wetland flora and fauna within adjacent parcels.
 - (4) Adverse impact upon wetland flora and fauna within those portions of the subject property not proposed for development under the application.
 - (5) Material injury to adjoining land.

Sec. 33B-29. Vested rights.

- (a) Notwithstanding any other provision of this division, any landowner who claims a vested right to develop his property at a density greater than permitted under this division may submit an application for a determination of vested rights to the Department of Planning and Zoning during the effective period of this division.

(b) Any person who claims a vested right shall file an application for a determination of vested rights with the Department of Planning and Zoning, and shall attach a sworn affidavit setting forth the facts upon which the applicant bases his claim for vested rights. In addition to any other submission required by the Department of Planning and Zoning, the applicant shall include copies of any contracts, letters and other documents upon which a claim of vested rights is based. The mere existence of zoning prior to the effective date of this division shall not vest rights. Grandfathered rights which preceded this division shall be extinguished.

(c) The Department of Planning and Zoning shall review the application and determine whether the applicant has demonstrated:

- (1) An act of development approval by an agency of Miami-Dade County,
- (2) Upon which the developer has in good faith relied to his detriment,
- (3) Such that it would be highly inequitable to deny the landowner the right to complete the previously approved development.

(d) Effect of vested rights determination. A determination that a landowner is entitled to a vested right to develop at a density greater than permitted under this division does not except the development from compliance with the standards set forth in Section 33B-26 of this division.

G. NEIGHBORHOOD SERVICES:

DERM	Objects
Public Works	No objection
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment

H. ANALYSIS:

The subject property is located on the north side of theoretical S.W. 125 Street between SW 199 Avenue and theoretical SW 200 Avenue, Miami Dade County, Florida. This application seeks to permit a site with less area than required by the Zoning Code in Management Area 1, known as the East Everglades. Said property is located approximately 3.5 miles west of the Urban Development Boundary (UDB) line and west of Containment Levee-31N.

The Department of Environmental Resources Management (**DERM**) has determined that this application does not meet the minimum requirements for residential use within Management Area 1 of the Area of Critical Environmental Concern. Additionally, DERM advises that the property is located in an area that receives no flood protection and therefore, it does not meet the Level of Service (LOS) standards for flood protection specified in the CDMP and may not be approved for concurrency for flood protection. Therefore, DERM **objects** to this application. The **Public Works Department** has **no objections** to this application and states that it will not generate any additional daily peak hour vehicle trips.

If approved, this application would allow the applicant the maintenance and continued use of an existing single family residence on this substandard-sized GU lot in the East Everglades. The parcel was issued a building permit for a barn building and a declaration of use agreement was recorded on February 27, 1989 in official record book #14012 at page 578-580. In the agreement made between the applicant and Miami-Dade County, the applicant committed to use the barn for storage for agricultural purposes only and further agreed that no residential use would be made of the barn or the property. However, the barn was illegally converted into a single family residence in direct violation of the applicant's commitment to the County. Additionally, the applicant has not applied for or provided for entitlements to the conditional uses permitted under Section 33B-25. Said section permits single-family detached dwelling units at a density no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event and that all the conditions of Section 33B-28 are met. This area did not have an established residential character as of January 14, 1981 as evidenced by the permit for a barn for agricultural purposes only and the declaration of use ensuring same. Additionally, staff has not received any documentation that the property affords sufficient protection from a one-in-ten-year flood event. Staff is of the opinion that this application does not meet the criteria under Sections 33B-25 and 33B-28 since the proposed use is inconsistent with the purposes, goals, objectives and standards of the East Everglades Management Plan and may irreversibly affect the ecological integrity of the East Everglades due to the adverse environmental impacts resulting from changes in water quality caused when drinking water wells become contaminated with domestic sewage.

Further, the applicant has not applied for or provided for entitlements to vested rights as provided under Section 33B-29. The applicant would have to provide to the Department of Planning and Zoning documentation setting forth the facts upon which he bases his claim for vested rights. The Department of Planning and Zoning would then review the application and determine whether the applicant has demonstrated an act of development approval by an agency of Miami-Dade County upon which the developer has in good faith relied to his detriment such that it would be highly inequitable to deny the landowner the right to complete the previously approved development. Staff notes that the only development approved by the County on this property, and agreed upon by the applicant, was for a barn structure for agricultural use only.

The Comprehensive Development Master Plan (CDMP) designates this area as Open Land on the Land Use Plan (LUP) map. The CDMP states that any parcel to be used for residential purposes must have a minimum of 40 gross acres in this LUP map designation. The applicant is requesting to permit a residence on a parcel of land with a lot area of 7.78 gross acres in what the CDMP text designates as Management Area 1 of the East Everglades. The plans submitted as part of this application depict the development of the site with an existing single family residence consisting of three bedrooms and two bathrooms. Staff has opposed most residential uses in this area since the 1981 passage of the East Everglades Ordinance and finds no justification to warrant an exception for this 7.78 gross acre parcel. The primary purpose of the East Everglades Ordinance was to minimize population growth in an area which is subject to periodic flooding. The intent of the

density restriction under the Ordinance is to prevent the problems that arise from the cumulative adverse environmental impacts of residential usage within an area that receives no flood protection. These problems include the need for a considerable infusion of public resources during flooding events, the health risks which arise when drinking water wells become contaminated with domestic sewage, the demands for publicly-financed flood control which inevitably occurs subsequent to flooding events, and the damage to private property which will occur when individuals make physical improvements in areas with high flood risks and no floodwater removal capacity.


As previously stated, **DERM** recommends that this application be denied in its entirety. As stated in their memorandum, approval of this application would set a precedent for allowing intensified development that would introduce the proliferation of septic tanks on less than forty acres, would result in potential health hazards, and may not be approved for concurrency for flood protection.

This application does not meet the Alternative Site Development Option (ASDO) Standards outlined in Section 33-311(A)(14) since it is zoned GU and designated for **open land uses** on the Land Use Plan (LUP) map of the CDMP, and the proposed area is less than 90% of that required by the regulations. Therefore the application should be denied under the ASDO Standards. If analyzed under the Alternative Non-Use Variance Standards (Section 33-311(A)(4)(c)), the applicant has not proven that enforcement of the provisions of the zoning code will result in unnecessary hardship. Additionally, the applicant is able to use the property for agricultural purposes and was permitted a barn building in accordance with the recorded declaration of restrictions. As such, this application cannot be approved under the Alternative Non-Use Variance Standards and should be denied under same. When analyzed under the Non-Use Variance Standards (Section 33-311(A)(4)(b)), this application does not maintain the basic intent and purpose of the land use regulations, is **inconsistent** with the CDMP and **incompatible** with the surrounding area. Approval of this application could be detrimental to the community since it could set a precedent that would lead to future requests to further parcelize this flood-prone area which would result in numerous health and safety issues. In consideration of all of the aforementioned, staff recommends denial without prejudice of this application.

I. **RECOMMENDATION:** Denial without prejudice.

J. **CONDITIONS:** None.

DATE INSPECTED: 04/11/05
DATE TYPED: 04/18/05
DATE REVISED: 04/21/05; 04/29/05; 05/23/05; 06/06/05; 06/16/05; 06/20/05; 06/21/05
DATE FINALIZED: 06/21/05
DO'QW:AJT:MTF:LVT:JV:JED

for 
Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: June 23, 2005

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: John W. Renfrow, P.E., Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "John W. Renfrow", written over the printed name of the sender.

Subject: C-14 #Z2005000037-Revised
Emilio Garcell
12350 & 12400 SW 199 Ave
Non-Use Variance of Lot Area Requirements for an Existing Single Family Residence
(GU) (7.78 Ac.)
15-55-38

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that the request meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code); therefore, the application may be scheduled for public hearing.

However, the subject site is located in an area that receives no flood protection, and therefore is likely to experience frequent flooding that persists for extended periods of time. It is DERM's staff opinion that the use of septic systems in an area with a high potential for flooding, will likely result in a human health hazard as well as the degradation of surface and ground water quality. In addition, DERM notes that the Zoning Overlay Ordinance outlines that a density of no greater than one (1) unit per five (5) acres can be approved, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten year flood event. This flood control facility does not exist. Accordingly, DERM recommends denial of the application.

Potable Water Supply and Wastewater Disposal:

The closest public water and public sanitary sewers are located approximately 4.4 miles from the site. Therefore, any land use on the property requiring sanitary facilities would have to be served by an on-site drinking water supply well and a septic tank.

The use of an on-site drinking water supply well may only be approved if groundwater quality in the area is such that drinking water standards can be met by the proposed water supply facility. The applicant is advised that a minimum separation distance of 100 feet is required from septic tanks and drainfields and from all surface waters. Furthermore, any on-site drinking water supply well may only be approved subject to compliance with the minimum drinking water standards for a potable water supply well, including DERM review and approval of the on-site well and water treatment system. The applicant shall also obtain an annual operating permit from the Water Supply Section of DERM for the said system.

Section 24-43.1 of the Code provides that the use of a septic tank as a means for the disposal of domestic liquid waste in conjunction with an on-site drinking water supply well, may only be approved if the property contains at least 20,328 square feet of unsubmerged land.

Notwithstanding the foregoing, DERM staff believes that the aforesaid Code provisions are intended for property that receives flood protection. As previously stated, the subject site is located in an area that receives no flood protection and consequently, has the potential of remaining flooded for prolonged periods. Staff believes that during these extended periods of flooding, the septic tank effluent may short circuit to the on-site drinking water well via the standing waters, thus becoming a health hazard for this property as well as for the neighboring ones.

DERM staff further believes that approval of the subject application would set a precedent for allowing intensified development that would induce the proliferation of septic tanks on less than forty acres; and furthermore, would be inconsistent with the language and intent of the Zoning Overlay Ordinance. Accordingly, DERM recommends that the application be denied.

Stormwater Management:

The subject property is located in area that receives no flood protection; therefore, it may not be approved for concurrency for flood protection.

Wetland Permitting Comments:

Although the subject property lies within a jurisdictional wetland basin, it does not contain jurisdictional wetlands.

Tree Preservation:

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. Consequently, DERM will require the preservation of all specimen-sized trees, as defined in the Code, on the site. A Miami-Dade County tree removal permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

The Department has conducted a concurrency review for this application and has determined that the same meets all applicable Levels of Service (LOS) standards as specified in the adopted Comprehensive Master Plan (CDMP) for potable water and supply and wastewater disposal.

However, since the property is located within an area that has no flood protection, the application does not meet the LOS standards for flood protection specified in the CDMP. Therefore, the application cannot be approved for concurrency.

In summary, the application meets the minimum requirements of Chapter 24 of the Code. Therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written consent to that effect as required by the Code. Notwithstanding the foregoing, DERM staff believes that approval of the application may result in an unwarranted source of contamination of surface and groundwater; accordingly, DERM recommends denial of the same.

cc: Lynne Talleda, Zoning Evaluation- P&Z
Ron Connally, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

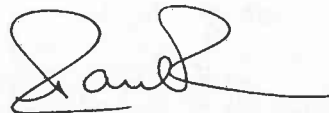
PH# Z2005000037
CZAB - C14

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: EMILIO GARCELL

This Department has no objections to this application.

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This meets the traffic concurrency criteria set for an Initial Development Order.



Raul A Pino, P.L.S.

17-FEB-05

Memorandum



Date: 28-MAR-05
To: Diane O'Quinn Williams, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue
Subject: Z2005000037

Fire Prevention Unit:

Development for the above Z2005000037
located at 12400 S.W. 199 AVENUE, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid _____ is proposed as the following:

_____ single	dwelling units	_____ industrial	square feet
_____ multifamily	dwelling units	_____ institutional	square feet
_____ commercial	square feet	_____ nursing home	square feet

Based on this development information, estimated service impact is
_____ alarms annually.

Planned service(s) to mitigate the impact is:

Station/Unit

Estimated date of opening

At this time, Miami-Dade Fire Rescue can/cannot accomodate the
additional projected service impact.

DATE: 05/10/05

TEAM METRO

ENFORCEMENT HISTORY

EMILIO GARCELL

12400 S.W. 199 AVENUE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

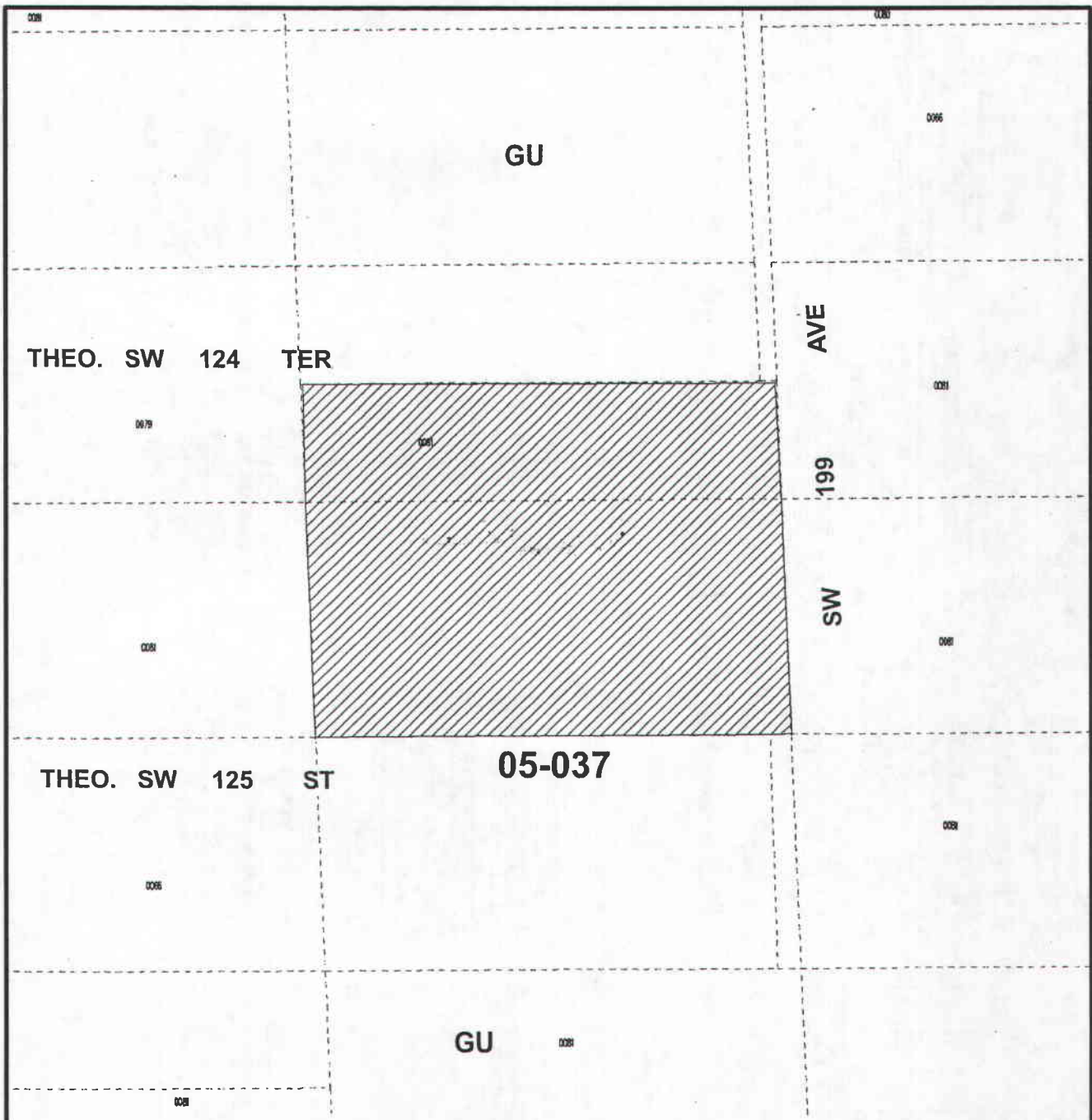
ADDRESS

Z2005000037

HEARING NUMBER

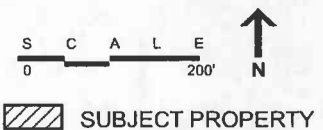
CURRENT ENFORCEMENT HISTORY:

No open Team Metro cases.



**MIAMI-DADE COUNTY
HEARING MAP**

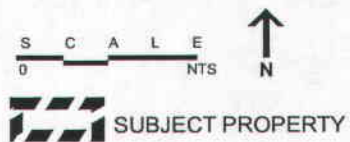
**Section: 15 Township: 55 Range: 38
Process Number: 05-037
Applicant: EMILIO GARCELL
Zoning Board: C14
District Number: 9
Drafter ID: KEELING
Scale: 1:200'**





**MIAMI-DADE COUNTY
AERIAL**

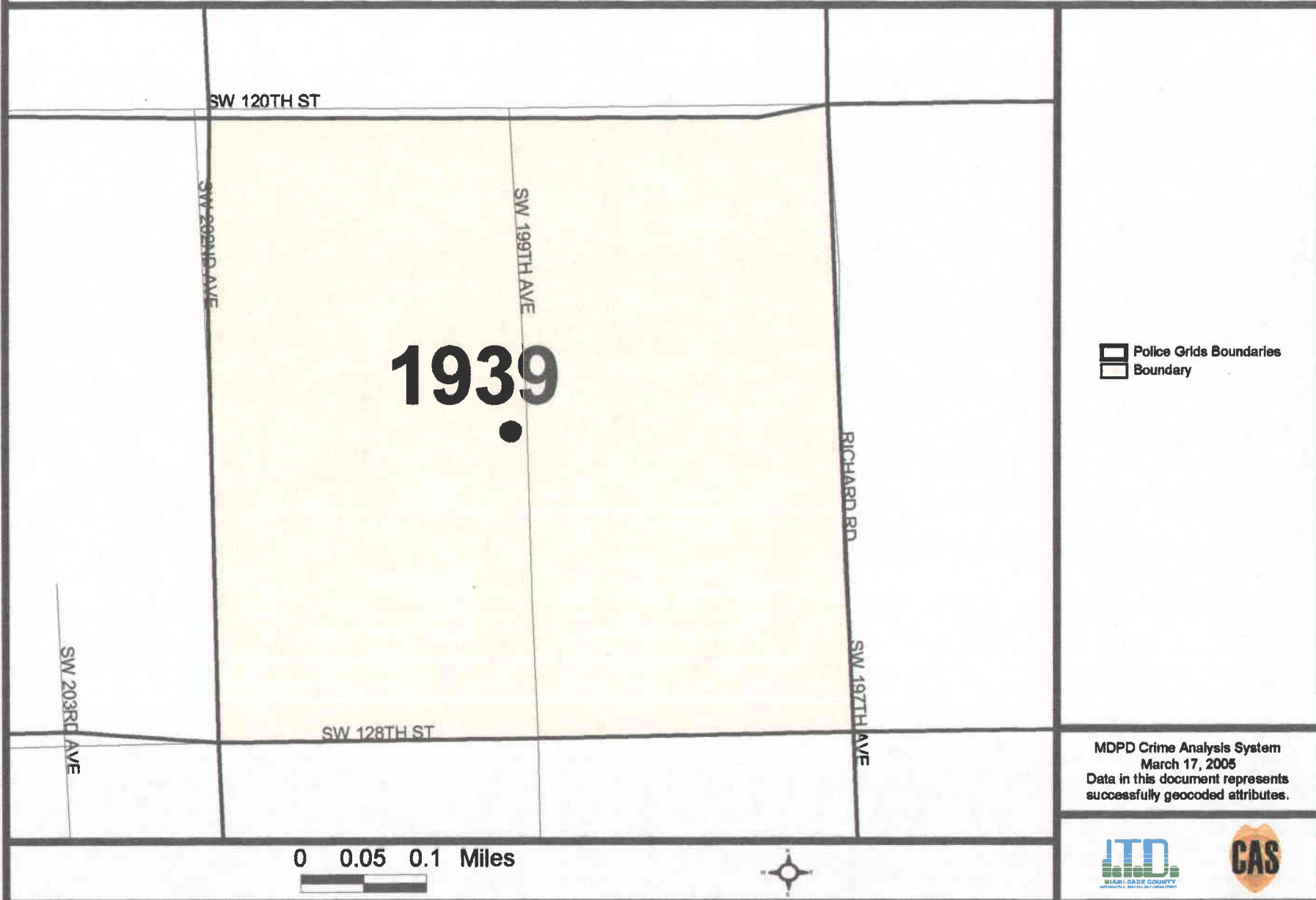
**Section: 15 Township: 55 Range: 38
Process Number: 05-037
Applicant: EMILIO GARCELL
Zoning Board: C14
District Number: 09
Drafter ID: KEELING
Scale: NTS**





Miami-Dade Police Department
Target Area - Police Grid(s): 1939
Emilio Garcell; Hearing # 05-037

C-14





Miami-Dade Police Department

Address Query for Events occurring at 12400 SW 199 Av For Thru

Miami-Dade Police Department

Crime Information Warehouse

Filter: Dis.Complaint Date >= "2003-03-14" and Dis.Complaint Date < "2005-03-15" and Dis.Police District Code in ("A", "B", "C", "D", "E", "H", "I", "J", "K", "L", "M", "N", "P", "Q", "R", "ZZ") and Dis.Incident
ss contains "12400 SW 199 Av" and Dis.Reporting Agency Code = substring ("030", 1, 3) and Common and Dis.Signal Code in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27",
"29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55")

Incident Address	Dis	Grid	A O P	Complaint Date	Day of Wk	Call Rcvd Time	Complaint Name	Case Number	Sig Pre	Sig Suf	Rcvd Time	Disp Time	1st Arriv Time	1st Arriv Unit	Event Number	Rp Wr YN
		1939														



Miami-Dade Police Department

Miami-Dade Police Department Zoning Hearing Report - Dispatch Information For 2003 and 2004



Detail Filter: (Dis.Complaint Date >= FirstDate and Dis.Complaint Date < LastDate) and (Dis.Grid in ("1350", "1430", "1472", "1795", "1939", "1954", "2276", "2404", "2421", "2436")) and ((Dis.Signal Code in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55") or ('ALL' in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55"))) and Common

		2003	2004	
Grid	Signal Code	Signal Description		
1939	13	SPECIAL INFORMATION/ASSIGNMENT	4	0
	14	CONDUCT INVESTIGATION	6	4
	15	MEET AN OFFICER	13	4
	21	LOST OR STOLEN TAG	1	0
	22	AUTO THEFT	2	0
	25	BURGLAR ALARM RINGING	2	0
	26	BURGLARY	1	3
	34	DISTURBANCE	1	3
	41	SICK OR INJURED PERSON	0	1
	45	DEAD ON ARRIVAL	1	0
Total Signals for Grid 1939 :			31	15



MIAMI-DADE POLICE DEPARTMENT
Zoning Hearing Report Part I and Part II Crimes w/o AOA
For Specific Grids
For 2003 and 2004



Miami-Dade Police Department

Grid(s): 0131, 0745, 0792, 0799, 0919, 1143, 1144, 1350, 1430, 1431, 1436, 1471, 1472, 1588, 1633, 1666, 1749, 1786, 1795, 1889, 1920, 1939, 1954, 2064, 2234, 2276, 2404, 2409, 2421, 2449, 2512, 2554, 2597, 2607, 2611, 2737

2003 2004

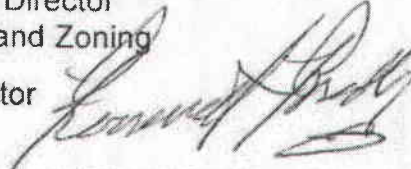
Grid 1939					
Part I					
	2400		MOTOR VEHICLE THEFT	1	0
	230G		SHOPLIFTING ALL OTHERS	1	0
Part I TOTAL				2	0
Part II					
	2000		ARSON	0	1
	130B		SIMPLE ASSAULT	1	0
Part II TOTAL				1	1
Grid 1939 TOTAL				3	1

Memorandum



Date: September 30, 2005

To: Diane O'Quinn Williams, Director
Department of Planning and Zoning

From: Roosevelt Bradley, Director
Miami-Dade Transit 

Subject: FY-06 Blanket Concurrency Approval for Transit

This memo serves as a blanket authorization for the Department of Planning and Zoning to continue to approve concurrency applications for mass transit in all areas of Miami-Dade County.

Miami-Dade Transit (MDT) has been charged with the responsibility of reviewing and approving concurrency applications for mass transit levels of service as stated in County Ordinance 89-66, Administrative Order 4-85, and Section 33-G of the Miami-Dade County Code. Based on the latest socio-economic information provided by your department's Research Division, and a review of the Metrobus/Metrorail service area, we are able to re-authorize your department to review and approve concurrency applications since it appears that all areas of Miami-Dade County meet or exceed the Level-of-Service (LOS) for mass transit established in the above referenced County Rules and Regulations.

MDT continues with the development process for the North Corridor transit project along NW 27th Avenue from 62nd Street to the Broward County Line. Please ask your staff to continue to signal any application whose address is on NW 27th Avenue, between these two points, so that they may be reviewed by MDT Staff.

This authorization is intended to continue the arrangement between our respective departments, and is effective for the period of October 1, 2005 to September 30, 2006, or until canceled by written notice from my office.

If your staff needs further information or assistance with mass transit concurrency matters, they may wish to contact Mario G. Garcia, Chief, System Planning Division, at (305) 375-1193. Your continued cooperation on these important matters is greatly appreciated.

Cc: Albert Hernandez, Deputy Director
MDT Planning and Engineering
Mario G. Garcia, Chief
MDT Systems Planning Division
Helen A. Brown, Concurrency Administrator
Department of Planning and Zoning

✓ J. Brown

Memorandum

MIAMI-DADE
COUNTY

Date: December 2, 2004

To: Dianne O'Quinn-Williams, Director
Department of Planning and Zoning

From: Vivian Donnell Rodriguez, Director
Park and Recreation Department *DMR*

Subject: Update for Blanket Concurrency Approval

RECEIVED

DEC 14 2004

MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

This memorandum updates the blanket concurrency approval memo of September 18, 2003. There is an adequate level of service within each of the three Park Benefit Districts for all unincorporated areas, as shown on the attached table, and we project that there will be sufficient surplus capacity to maintain an adequate level of service for one additional year. Nevertheless, on a case-by-case basis, this Department will additionally evaluate the capacity of existing parks to support projected residential populations created by new development.

This approval is valid until November 30, 2005. If conditions change prior to that, I will inform Helen Brown, Concurrency Administrator of your department.

Attachment

VDR: WHG:BF:RK

cc: Helen Brown, Metropolitan Planning, DP&Z
W. Howard Gregg, Asst. Director for Planning & Development, PARD
Barbara Falsey, Chief, Planning and Research Division, PARD

Memorandum



Date: April 21, 2005

To: Alberto J. Torres, Assistant Director for Zoning
Department of Planning and Zoning

From: Manuel C. Mena, Chief
MDFR Fire Prevention Division

Subject: Concurrency Approval

Subject to compliance with Article XIV a. "Water Supply for Fire Suppression" of the Miami-Dade County Code, blanket approval for "Initial Development Orders" for any proposed use is hereby granted until further notice.

A subsequent review to assess compliance with Miami-Dade County Fire Flow Standards addressed under the concurrency requirements, as stated in Chapter 163, part 2. Florida Statute, will be necessary during the building permit process.

When zoning use variances are permitted the fire flow standards for the zone permitting the use will be applied

MCM:skr

c: Control File



MEMORANDUM

*Original to Helen Proun
cy to Al Jones*

TO: Diane O'Quinn Williams
Director
Department of Planning and Zoning

DATE: September 12, 2003
SUBJECT: Solid Waste Disposal
Concurrency Determination

FROM: Andrew Wilfork
Director
Department of Solid Waste Management

The Department of Solid Waste Management determines compliance with the County's adopted level-of-service (LOS) standard for solid waste disposal based on the ability of the County Solid Waste Management System (System) to accommodate projected waste flows for concurrency. Only those System facilities that are constructed, under construction, subject to a binding executed contract for construction, or subject to a binding executed contract for the provision of services are included in this determination, in accordance with Chapter 33G of the Miami-Dade County Code, Concurrency Management Program.

The attached spreadsheet presents the projected utilization of the System's remaining disposal capacity over a period of 15 years. The projection is based on the demand generated by those parties (municipalities and private haulers) who have committed their waste flows to the System through interlocal agreements and long term contracts as well as anticipated non-committed waste flows, in accordance with the LOS standard. The analysis shows adequate System capacity to meet the LOS until 2015 or seven (7) years beyond the minimum standard. This determination is contingent upon the continued ability of the County and its disposal service contract providers to obtain and renew disposal facility operating permits from the applicable federal, state and local regulatory agencies. Therefore, please be advised that the current LOS is adequate to permit development orders to be issued. This determination shall remain in effect for a period of three (3) fiscal years (ending September 30, 2006), at which time an updated determination will be issued. If, however, a significant event occurs which substantially alters these projections, the Department will issue an updated determination.

Attachment

cc: Pedro G. Hernandez, P.E., Assistant County Manager
Victoria Garland, Acting Deputy Director, DSWM
Vicente Castro, Assistant Director for Technical Services, DSWM
Paul J. Mauriello, Acting Assistant Director for Disposal Operations, DSWM
Charles W. Parkinson, Jr., Acting Assistant Director for Administration, DSWM

RECEIVED
SEP 18 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____

Department of Solid Waste Management (DSWM)
Solid Waste Facility Capacity Analysis
Fiscal Year 2002-2003

Year	Waste Projections (tons)	RESOURCES RECOVERY FACILITY					RTI FACILITY				LANDFILLS			WHEELABRATOR (contract had ended on 12/31/02)	Total
		On-site Gross Tonnage	Unders to South Dade	Shredded Tires to South Dade	Ash to Ashfill	Net Tonnage	RTI Gross Tonnage	RTI Rejects to North Dade and Medley Landfill	Okeelanta Ash to R.R. Ashfill	Tonnage	SOUTH DADE Garbage	NORTH DADE Trash	WMI Garbage & Trash	Trash	
					[1]	[2]			[3]	[4]	[5]	[6]	[7]	[8]	[1]-[8]
2003 *	1,837,000	936,000	196,000	17,000	119,000	604,000	270,000	54,000	27,000	189,000	410,000	333,000	146,000	8,000	1,836,000
2004 **	1,715,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	273,500	395,000	100,000	0	1,715,500
2005	1,715,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	273,500	395,000	100,000	0	1,715,500
2006 ***	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2007	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2008	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2009	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2010	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2011	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500

RESOURCES RECOVERY	GARBAGE	TRASH	TIRES	TOTAL
* TOTAL @ 1.84M	853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)
** TOTAL @ 1.72M	853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)
*** TOTAL @ 1.71M	853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)

TOTAL WASTE STREAM PERCENTAGES @ 1.84 MILLIONS TONS

GARBAGE 54.3%	997,000
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SPECIAL (includes Tires) 1.3%	24,000
TOTAL	1,837,000

REMAINING CAPACITY BY FACILITY AT END OF FISCAL YEAR

Year	Ashfill Capacity *	South Dade Capacity **	North Dade Capacity ***	WMI **** Disposed
Base Capacity	207,000	4,352,000	3,130,000	146,000
2003	61,000	3,942,000	2,797,000	100,000
2004	0	3,688,500	2,402,000	188,000
2005	0	3,395,000	2,007,000	249,000
2006	0	3,131,500	1,612,000	249,000
2007	0	2,868,000	1,217,000	249,000
2008	0	2,604,500	822,000	249,000
2009	0	2,341,000	427,000	249,000
2010	0	2,077,500	32,000	249,000
2011	0	1,702,000	0	500,000
2012	0	1,294,500	0	500,000
2013	0	887,000	0	500,000
2014	0	479,500	0	500,000
2015	0	72,000	0	500,000
2016	0	0	0	0
2017	0	0	0	0
2018	0	0	0	0
Total Remaining Years	0	12	6	

* Ashfill capacity includes cells 17 and 18; cells 19-20 have not been constructed. When cells 17 and 18 are depleted Resources Recovery Plant Ash and Okeelanta Ash go to South Dade Landfill and Medley Landfill (WMI).

** South Dade includes cells 3 and 4; cell 5 has not been constructed. Assumes all unders consumes capacity whether or not it is used as cover.

*** North Dade capacity represents buildout of the facility. When North Dade Landfill capacity is depleted trash goes WMI and South Dade Landfill.

**** Maximum Contractual Tonnage per year to WMI is 500,000 tons; Minimum Contractual Tonnage per year is 100,000 tons. WMI disposal contract ends September 30, 2015. After WMI disposal contract ends tonnage goes to South Dade Landfill.

All capacity figures are derived from the Capacity of Miami-Dade County Landfills report prepared by the Brown and Caldwell, Dated October 2002.

2004 PARK LOCAL OPEN SPACE BASED ON BENEFIT DISTRICTS - UNINCORPORATED AREA

PBD	2000 Population	Accrued Population	Total Population	Need @ 2.75 Acres Per 1000 (Acres)	Existing Local Open Space			Total Local Open Space	Surplus (Deficit) Acres	Level of Service
					Park Acres	School field Acres	1/2 Private Acres			
1	332,396	29,396	361,792	994.92	1,044.49	491.02	85.32	1,620.83	625.91	1.629
2	520,177	23,003	543,180	1,493.75	1,476.12	461.33	139.79	2,077.24	583.49	1.390
3	141,699	38,253	179,952	494.86	578.93	177.20	6.90	763.03	268.17	1.541
TOT:	994,272	90,652	1,084,924	2,983.53	3,099.54	1,129.55	232.01	4,461.10	1,477.57	1.520

Memorandum



Date: January 18, 2005

To: Diane O'Quinn Williams, Director
Department of Planning and Zoning

From: Roosevelt Bradley, Director
Miami-Dade Transit

A handwritten signature in black ink, appearing to read "Roosevelt Bradley", written over the printed name.

Subject: FY05 Blanket Concurrency Approval for Transit

This memo serves as a blanket authorization for your Department to continue to review and approve concurrency applications for mass transit in all areas of Miami-Dade County.

Miami-Dade Transit has been charged with the responsibility of reviewing and approving concurrency applications for mass transit levels of service as stated in County Ordinance 89-66, Administrative Order 4-85, and Section 33-G of the Miami-Dade County Code. Based on the latest socio-economic information provided by your department's Research Division, and a review of the Metrobus/Metrorail service area, we are able to re-authorize your department to review and approve concurrency applications since it appears that all areas of Miami-Dade County meet or exceed the Level-of-Service Standards (LOS) for mass transit established in the above referenced County Rules and Regulations.

MDT continues with the development process for the North Corridor transit project along NW 27th Avenue from 62nd Street to the Broward County line. Please, ask your staff to continue to signal any application whose address is on NW 27th Avenue, between these two points, so that they may be reviewed by MDT staff.

This authorization is intended to continue the arrangement between our respective Departments, and is effective for the period October 1, 2004 to September 30, 2005, or until canceled by written notice from my office.

If your staff needs further information or assistance with mass transit concurrency matters, they may wish to contact Mario G. Garcia, Chief, System Planning Division, at 375-1193. Your continued cooperation on these important matters is greatly appreciated.

cc: George Navarrete
Mario G. Garcia

✓ H. Brown

Memorandum

MIAMI-DADE
COUNTY

Date: December 2, 2004

To: Dianne O'Quinn-Williams, Director
Department of Planning and Zoning

From: ~~A~~ Vivian Donnell Rodriguez, Director
Park and Recreation Department *dm*

Subject: Update for Blanket Concurrency Approval

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MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

This memorandum updates the blanket concurrency approval memo of September 18, 2003. There is an adequate level of service within each of the three Park Benefit Districts for all unincorporated areas, as shown on the attached table, and we project that there will be sufficient surplus capacity to maintain an adequate level of service for one additional year. Nevertheless, on a case-by-case basis, this Department will additionally evaluate the capacity of existing parks to support projected residential populations created by new development.

This approval is valid until November 30, 2005. If conditions change prior to that, I will inform Helen Brown, Concurrency Administrator of your department.

Attachment

VDR: WHG:BF:RK

cc: Helen Brown, Metropolitan Planning, DP&Z
W. Howard Gregg, Asst. Director for Planning & Development, PARD
Barbara Falsey, Chief, Planning and Research Division, PARD

Memorandum



Date: April 21, 2005

To: Alberto J. Torres, Assistant Director for Zoning
Department of Planning and Zoning

From: Manuel C. Mena, Chief
MDFR Fire Prevention Division

Subject: Concurrency Approval

Subject to compliance with Article XIV a. "Water Supply for Fire Suppression" of the Miami-Dade County Code, blanket approval for "Initial Development Orders" for any proposed use is hereby granted until further notice.

A subsequent review to assess compliance with Miami-Dade County Fire Flow Standards addressed under the concurrency requirements, as stated in Chapter 163, part 2. Florida Statute, will be necessary during the building permit process.

When zoning use variances are permitted the fire flow standards for the zone permitting the use will be applied

MCM:skr

c: Control File



MEMORANDUM

*Original to Helen Proun
by to Al Jones*

TO: Diane O'Quinn Williams
Director
Department of Planning and Zoning

DATE: September 12, 2003
SUBJECT: Solid Waste Disposal
Concurrency Determination

FROM: Andrew Wilfork
Director
Department of Solid Waste Management

The Department of Solid Waste Management determines compliance with the County's adopted level-of-service (LOS) standard for solid waste disposal based on the ability of the County Solid Waste Management System (System) to accommodate projected waste flows for concurrency. Only those System facilities that are constructed, under construction, subject to a binding executed contract for construction, or subject to a binding executed contract for the provision of services are included in this determination, in accordance with Chapter 33G of the Miami-Dade County Code, Concurrency Management Program.

The attached spreadsheet presents the projected utilization of the System's remaining disposal capacity over a period of 15 years. The projection is based on the demand generated by those parties (municipalities and private haulers) who have committed their waste flows to the System through interlocal agreements and long term contracts as well as anticipated non-committed waste flows, in accordance with the LOS standard. The analysis shows adequate System capacity to meet the LOS until 2015 or seven (7) years beyond the minimum standard. This determination is contingent upon the continued ability of the County and its disposal service contract providers to obtain and renew disposal facility operating permits from the applicable federal, state and local regulatory agencies. Therefore, please be advised that the current LOS is adequate to permit development orders to be issued. This determination shall remain in effect for a period of three (3) fiscal years (ending September 30, 2006), at which time an updated determination will be issued. If, however, a significant event occurs which substantially alters these projections, the Department will issue an updated determination.

Attachment

cc: Pedro G. Hernandez, P.E., Assistant County Manager
Victoria Garland, Acting Deputy Director, DSWM
Vicente Castro, Assistant Director for Technical Services, DSWM
Paul J. Mauriello, Acting Assistant Director for Disposal Operations, DSWM
Charles W. Parkinson, Jr., Acting Assistant Director for Administration, DSWM

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SEP 18 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____

Department of Solid Waste Management (DSWM)

Solid Waste Facility Capacity Analysis

Fiscal Year 2002-2003

Year	Waste Projections (tons)	RESOURCES RECOVERY FACILITY					RTI FACILITY				LANDFILLS			WHEELABRATOR (contract had ended on 12/31/02)	Total
		On-site Gross Tonnage	Unders to South Dade	Shredded Tires to South Dade	Ash to Ashfill	Net Tonnage	RTI Gross Tonnage	RTI Rejects to North Dade and Medley Landfill	Okeelanta Ash to R.R. Ashfill	Tonnage	SOUTH DADE Garbage	NORTH DADE Trash	WMI Garbage & Trash		
					[1]	[2]			[3]	[4]	[5]	[6]	[7]	[8]	[1]-[9]
2003 *	1,837,000	936,000	196,000	17,000	119,000	804,000	270,000	54,000	27,000	189,000	410,000	333,000	146,000	8,000	1,836,000
2004 **	1,715,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	273,500	395,000	100,000	0	1,715,500
2005	1,715,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	273,500	395,000	100,000	0	1,715,500
2006 ***	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	273,500	395,000	100,000	0	1,705,500
2007	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	283,500	395,000	100,000	0	1,705,500
2008	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	283,500	395,000	100,000	0	1,705,500
2009	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	283,500	395,000	100,000	0	1,705,500
2010	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	283,500	395,000	100,000	0	1,705,500
2011	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	283,500	395,000	100,000	0	1,705,500

RESOURCES RECOVERY	GARBAGE	TRASH	TIRES	TOTAL
* TOTAL @ 1.84M	853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)
** TOTAL @ 1.72M	853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)
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3	141,699	38,253	179,952	494.86	578.93	177.20	6.90	763.03	268.17	1.541
Sum:	994,272	90,652	1,084,924	2,983.53	3,099.54	1,129.55	232.01	4,461.10	1,477.57	1.520